

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA           ) CAUSE NO. 3:04-CR-240-P  
  (  
vs.                                        )  
  ( OCTOBER 15, 2008  
  ) DALLAS, TEXAS  
HOLY LAND FOUNDATION, ET AL   ( 9:00 A.M.

---

VOLUME 18 OF 37

---

STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS  
UNITED STATES DISTRICT JUDGE  
and a jury

---

A P P E A R A N C E S

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE  
1100 COMMERCE, 3RD FLOOR  
DALLAS, TEXAS 75242  
BY: MR. JIM JACKS  
MR. BARRY JONAS  
MS. ELIZABETH SHAPIRO

FOR THE DEFENDANT: FREEDMAN, BOYD, HOLLANDER,  
(SHUKRI ABU BAKER) GOLDBERG & IVES, P.A.  
20 FIRST PLAZA, SUITE 700  
ALBUQUERQUE, NEW MEXICO 87102  
BY: MS. NANCY HOLLANDER  
MS. TERESA DUNCAN

1                   FOR THE DEFENDANT:    LAW OFFICE OF JOSHUA L. DRATEL  
                 (MOHAMMAD EL-MEZAIN) 14 WALL STREET, 28TH FLOOR  
2   NEW YORK, NEW YORK 10005  
  BY:   MR. JOSHUA DRATEL  
3   MR. AARON J. MYSLIWIEC

4                   FOR THE DEFENDANT:    LAW OFFICE OF MARLO P. CADEDDU  
                 (MUFID ABDULQADER) 3232 MCKINNEY AVENUE, SUITE 700  
5   DALLAS, TEXAS 75204  
  BY:   MS. MARLO P. CADEDDU

6                   FOR THE DEFENDANT:    LAW OFFICE OF LINDA MORENO  
7                   (GHASSAN ELASHI)    P.O. BOX 10985  
  TAMPA, FLORIDA 33679  
8   BY:   MS. LINDA MORENO

9   JONES DAY  
  555 CALIFORNIA ST., 26TH FLOOR  
10    SAN FRANCISCO, CA 94104  
  BY:   MR. JOHN D. CLINE

11                   FOR THE DEFENDANT:   WESTFALL, PLATT & CUTRER  
12                   (ABDULRAHAM ODEH)   ONE SUMMIT AVENUE, SUITE 910  
  FORT WORTH, TEXAS 76102  
13    BY:   MR. GREG WESTFALL

14                   COURT'S LAW CLERK:   MS. JENNIFER HELMS  
  1100 COMMERCE, RM. 1654  
15    DALLAS, TEXAS 75242

16                   COURT COORDINATOR:   MS. BRENDA WEBB  
  1100 COMMERCE, RM. 1654  
17    DALLAS, TEXAS 75242

18                   OFFICIAL COURT REPORTER: SHAWN M. McROBERTS, RMR, CRR  
  1100 COMMERCE STREET, RM. 1654  
19    DALLAS, TEXAS 75242  
  (214) 753-2349  
20

## INDEX

### EXAMINATION

Witness Name	Page
ROBERT MIRANDA	
Direct By MR. JACKS .....	33
Cross By MR. CLINE .....	98
Cross By MS. HOLLANDER .....	122
Cross By MS. HOLLANDER .....	205
Cross By MR. WESTFALL .....	233
STEVEN SIMON	
Direct By MS. SHAPIRO .....	138
Cross By MR. DRATEL .....	153
JOSEPH HUMMEL	
Direct By MR. JACKS .....	176
Cross By MR. CLINE .....	185
Redirect By MR. JACKS .....	188
Recross By MR. CLINE .....	189

### Government's Exhibits

Government's Exhibits	Page
Elbarasse Search No. 35 Admitted into Evidence.	47
HLF Seach No. 91 Admitted into Evidence.	63
InfoCom Search No. 36 Admitted into Evidence.	68
HLF Search No. 89 Admitted into Evidence.	71
HLF Search No. 90 Admitted into Evidence.	80
Demonstrative No. 6 Admitted into Evidence.	84
Demonstrative No. 3 Admitted into Evidence.	89
Demonstrative No. 5 Admitted into Evidence.	90
Demonstrative No. 4 Admitted into Evidence.	92

### Defendants' Exhibits

Defendants' Exhibits	Page
Demonstrative No. 2 Admitted into Evidence.	220
Defendants' No. 1087 Admitted into Evidence.	254

1           THE COURT: All right. On the issue of Mr. Simon  
2 regarding the reasons why Hamas was designated, I am going to  
3 sustain that objection as to the reasons why.

4           In reading the *McKeever* case, what the Court allowed is  
5 that they were -- that Libya was connected to terrorism, but  
6 they didn't get into the why they made that determination,  
7 which as I understand it is where you are intending to go, Ms.  
8 Shapiro, unless I am misunderstanding or understanding  
9 improperly.

10           MS. SHAPIRO: Well, what we can do, Your Honor, is  
11 we don't even need to make reference to the law or why the  
12 executive order came about. I mean, really his testimony goes  
13 to why the Oslo process and peace in the region is important  
14 to the United States' interests. So, I mean, we can certainly  
15 put his testimony on without going behind the law.

16           THE COURT: Okay.

17           MR. DRATEL: Your Honor, I don't see any  
18 distinction. That is the reason for the law is it is about --  
19 The purpose of the executive order is people who are  
20 potentially interfering with the Middle East peace process is  
21 what the executive order is about. That is the stated  
22 purpose. So really without stating it they just want to get  
23 the same thing in.

24           What they want to ask the jury is to convict because this  
25 is so important to the United States, regardless of what the

1 law is. They want to say this is a foreign policy objective  
2 of the United States that the jury should -- That is why I  
3 call it reverse jury nullification. So I think all of it is  
4 really about the same thing, and there is no way to carve it  
5 out in a way that doesn't do -- what is not relevant according  
6 to the case law and was is not proper under the case law and  
7 under -- You know, it is not an element of the offense.

8 There is no logical legal relevance of the question of  
9 U.S. foreign policy even if it were against U.S. foreign  
10 policy. Even if it were against U.S. foreign policy, it  
11 wouldn't be relevant. The fact that it is for U.S. foreign  
12 policy isn't relevant, and that is the whole basis for the  
13 executive order in the first place. It says so in the order  
14 itself. So to do that would just be to buttress that and  
15 really piggyback on it in a way that wouldn't be proper.

16 THE COURT: Ms. Shapiro, anything else?

17 MS. SHAPIRO: No, other than the context of the Oslo  
18 process and what Hamas was doing to damage that process and  
19 the interests of the United States in the region is important  
20 to help the jury put this case into context. We are not  
21 trying to convict them based on the contextual background, but  
22 it is important for them to understand that background.

23 THE COURT: Mr. Cline?

24 MR. CLINE: Your Honor, just one quick comment. You  
25 have endeavored throughout this trial to keep politics out of

1     it. I am not convinced that is entirely possible, but I know  
2     Your Honor has tried to do that. That is all this is. This  
3     is politics.

4             THE COURT: So what your intent is, then, is to  
5     discuss -- have him discuss the Oslo peace process and then  
6     the perception that Hamas was undermining that and then the  
7     designation?

8             MS. SHAPIRO: Right. Again, Your Honor, this would  
9     be a very short witness. He was meant to come earlier in the  
10    case where this probably fit a little more neatly. But he  
11    will essentially just give his background. He worked with the  
12    National Security Council during the mid '90s, and he will say  
13    what was going on at that time, the efforts that the NSC was  
14    engaged in to help the peace process along, how Hamas was  
15    undermining that process, and why it was in the interest of  
16    the United States to have a peaceful solution to the conflict.

17            THE COURT: When you say how Hamas was undermining  
18    that process, what are you intending on getting into?

19            MS. SHAPIRO: He will essentially say that there  
20    were attacks that were going on at the time that were aimed  
21    at -- they were timed toward certain events in the peace  
22    process, and they were efforts to undermine that process, and  
23    that that -- Well, I mean, initially the idea was to then have  
24    him explain how the executive order was intended to  
25    essentially buttress that peace process and get at the

1 terrorist organizations that were trying to undermine it, but  
2 I can excise that out, and then he would simply be getting at  
3 why a solution to the -- why a peaceful solution in the region  
4 is important to the United States' interests abroad.

5 MR. DRATEL: And, Your Honor, that is not relevant  
6 to this case. Doctor Levitt has already put in everything  
7 that they have said, any factual matter. We are really in  
8 *Al-Moyaad* territory here in the context of things that aren't  
9 relevant, that are designed to prejudice, and really has no  
10 purpose.

11 What she has just said -- What Ms. Shapiro has just said  
12 is the same thing. Hamas is undermining the peace process;  
13 therefore, we passed this executive order. The reasons  
14 underlying the executive order, it is the same path to the  
15 same -- It is the same destination and just different words  
16 and different paths, but it is really all the same thing.  
17 And the ultimate point they are trying to make is one that is  
18 impermissible.

19 THE COURT: And I am not sure that that is  
20 impermissible. It already is in, to a certain extent. As you  
21 pointed out, what is in the order is the terrorist activities  
22 that undermine the peace process. That is already in. I  
23 think Doctor Levitt testified to that as well. And I don't  
24 know that that prejudices the Defendants individually. It  
25 talks about Hamas.

1           The issue here is whether these Defendants were  
2 supporting Hamas. And so I don't know that that in and of  
3 itself is any prejudice as to these Defendants. It doesn't  
4 speak to that issue. But it does go to the issue of the  
5 context that is involved here.

6           And some of the Defense counsel made some statements in  
7 their opening statements that actually touched on that as  
8 well, which is why I have been struggling with this issue to  
9 some extent, because normally it wouldn't be something that we  
10 would go into, but there were statements made during opening  
11 that touched on those issues.

12           MS. SHAPIRO: I was just going to say, specifically  
13 I think Ms. Moreno stood up and said that the government of  
14 Israel was controlling U.S. foreign policy, and essentially  
15 telling the jury that they were running this case, which the  
16 evidence won't show, and I think is impermissible, and I think  
17 that it leaves putting forth the United States' independent  
18 interest here is relevant.

19           THE COURT: I will allow it to the limited extent  
20 that you have described, then, and excise that other portion  
21 that you were planning on going into. I think that is  
22 probably already in the case, and this is a proper witness,  
23 then, to get it in there. That will be my ruling.

24           MR. DRATEL: Thank you, Your Honor.

25           THE COURT: All right. And then I just received a

1 letter from Mr. Jacks, I guess it was dated yesterday, about  
2 the 302s.

3 MR. JACKS: Yes, sir. The letter sets out the  
4 chronology, and it is our position that those 302s are not  
5 required to be turned over. And we have tendered them to the  
6 Court, and gave I think an accurate recitation of Agent Burns'  
7 testimony on cross and why that does not trigger the necessity  
8 to produce those 302s.

9 Mr. Dratel?

10 MR. DRATEL: Your Honor, what the letter really  
11 doesn't address, and what we would ask the Court when it  
12 reviews these 302s to concentrate on, is the *Brady* aspect of  
13 this, and beyond what was disclosed to us in January 2006 with  
14 respect to Hamami, HLF, his relationship with Hamas, HLF's  
15 relationship with the organizations, and Hamami's organization  
16 as well, which is really what the thrust of the direct was.  
17 And, frankly, there is no doubt that it is a large issue in  
18 this case, and we feel we should have been advised of that a  
19 long, long time ago.

20 We should have been advised at a time where it would have  
21 done us some good for preparation of this trial. I realize  
22 they gave us something in 2006, but we believe based on what  
23 was said on cross examination and what we think is in those  
24 302s really goes well beyond that. We ask the Court to read  
25 it with that in mind.

1 THE COURT: All right. I will take a look at those,  
2 then.

3 MS. HOLLANDER: Your Honor, do you have what was  
4 provided to us in 2006?

5 THE COURT: Did you attach that, Mr. Jacks? I think  
6 the letter states that you did.

7 MR. JACKS: Yes.

8 THE COURT: So apparently I do.

9 MS. HOLLANDER: Okay. It is not attached to ours.

10 THE COURT: I have got copies here.

11 MS. HOLLANDER: I just want to make sure it is the  
12 same thing I have. It is the letter.

13 THE COURT: We are still missing two jurors, by the  
14 way.

15 MR. JACKS: The Defense has provided some notice of  
16 exhibits that they intend to go through in their cross  
17 examination of Agent Miranda, and I don't know -- I am  
18 probably going to complete my direct examination this morning,  
19 and I don't know if you want to discuss those now.

20 THE COURT: Yes. Let's go ahead and do that since  
21 our jurors are out.

22 MS. HOLLANDER: Your Honor, I just ask Mr. Miranda  
23 not be in the room when we are discussing the cross  
24 examination exhibits.

25 THE COURT: Okay.

1           And then is it those Defense Exhibit 1087 and 1340 and  
2           1342, those are still the objections you are making?

3           MR. JACKS: Yes. Looking at the list that was sent,  
4           and I don't have that one --

5           MR. JONAS: Yes, Your Honor. Those are the original  
6           exhibits that the Defense noticed the Government they are  
7           intending to show through Agent Miranda, and we filed a  
8           written response objection.

9           THE COURT: Right. And that is what I was looking  
10          at is your written responses. I was just wondering if that  
11          had changed. This is I think from last week.

12          MR. JACKS: That has not changed.

13          MR. JONAS: That has not changed. Mr. Westfall has  
14          notified the Government he intends on showing Agent Miranda  
15          some additional exhibits, which we object to as well.

16          MS. DUNCAN: And, Your Honor, we also have  
17          additional exhibits we have notified the Government.

18          THE COURT: You have notified the Government of  
19          those?

20          MS. DUNCAN: Yes. I think that we notified them of  
21          two additional exhibits in addition to the original list we  
22          provided to Mr. Jacks, and I don't know the Government's  
23          position as to those.

24          THE COURT: Mr. Jacks, I will just let you address  
25          which ones you are objecting to.

1           MR. JACKS: Yes, sir. I have received notification  
2     that they intend to try to admit Defendants' Exhibits 419,  
3     444, and 721, which are photographs, and our objection is that  
4     while they may have come from the search of the Holy Land  
5     premises, they cannot be -- No further foundation can be laid  
6     to show their admissibility; certainly not through Agent  
7     Miranda.

8           They have noticed Defendants' Exhibits 1179 and 1180,  
9     which I don't -- They show to be photographs but I can't find  
10    them on my disk of Defense exhibits, and so I am not really  
11    sure what they show, but we would have the same objection--no  
12    foundation.

13          There is Defendants' Exhibit 1355, which is a photograph  
14    downloaded from the internet, and we would object again to the  
15    lack of foundation for that photograph.

16          Then there is a notice to Defendants' Exhibit No. 899,  
17    which I assume is a video and I am not sure what it shows,  
18    Your Honor, because the exhibit list just says "video" and  
19    then a number. And I haven't gone to locate that video and  
20    see what it shows. But again, we would object on the grounds  
21    of hearsay, and no foundation can be established through Agent  
22    Miranda.

23          Mr. Westfall sent me last night three documents which  
24    appear to be documents, I am assuming that he created them,  
25    and there is no way that Agent Miranda can authenticate or --

1 THE COURT: What are they?

2 MR. JACKS: Yesterday, Your Honor, there were  
3 some -- the Government admitted some exhibits which were -- I  
4 think this one was -- Sorry. I don't remember the number.  
5 Solicitor's analysis report. It had to do with this  
6 individual Deeb Anees and their records showing his entry and  
7 dates for '97, '98, '99, and I believe that was it, and just  
8 dollar amounts and cities and his name next to it. And it  
9 looks like Mr. Westfall has taken that information and  
10 reconfigured it or done something with it and put it into  
11 other forms and other exhibits, and Agent Miranda obviously  
12 has no idea what those exhibits show or how they were created,  
13 and I don't believe that that could be provided by  
14 Mr. Westfall to him.

15 THE COURT: What are those exhibit numbers? Do you  
16 have them?

17 MR. JACKS: I don't believe they had exhibit numbers  
18 at the time.

19 MR. WESTFALL: They do, Your Honor. But there were  
20 four of them, and I sent them to the Court also.

21 MR. JACKS: Four? I got three.

22 THE COURT: How did you send them to me?

23 MR. WESTFALL: To email.

24 MR. JACKS: I got three.

25 MS. HELMS: I got four.

1           MR. JACKS:   Okay.   Regardless, Your Honor, these  
2 documents, while they may be something that some other witness  
3 could come in and introduce, certainly not Agent Miranda.

4           THE COURT:   Okay.   And the other objections?

5           MR. JACKS:   I believe that is all that I have been  
6 notified about, Your Honor.

7           THE COURT:   And the written ones, you objected to  
8 Defense Exhibit 1087 and 1340 and 1342, the ones you filed  
9 last week?

10          MR. JACKS:   Yes, sir.   And I don't have that in  
11 front of me.   We do renew those objections.

12          THE COURT:   No. 1087, you say it has already been  
13 admitted as your HLF Search No. 23.

14          MR. JACKS:   Yes, sir.

15          THE COURT:   The Defendants' version reorders the  
16 information from chronological to alphabetical.   The  
17 Government questions the need for the exhibit to be admitted  
18 twice due to concern for potential confusion.

19          No. 1340 and 1342 are transcripts, I take it, of  
20 intercepted phone conversations.

21          MR. JACKS:   Yes, sir.

22          THE COURT:   Of Mr. El-Mezain and maybe a family  
23 member.

24          MR. JACKS:   Yes, sir.   And those obviously are  
25 hearsay and are not relevant, is our position.

1           THE COURT: All right. Well, let's start  
2 with -- That is all of the objections. Let's start with those  
3 photographs. Who wants to address those?

4           MS. HOLLANDER: I can do the photographs, Your  
5 Honor.

6           These photographs Agent Miranda, has been through all of  
7 the material --

8           THE COURT: What are 419, 444, and 721? What are  
9 those photographs of?

10          MS. HOLLANDER: No. 419, I may not use all of them,  
11 but No. 419 -- I can show them to you. No. 419, No. 444, they  
12 are really all similar pictures.

13          THE COURT: What are they of, counsel? That is what  
14 I am asking.

15          MS. HOLLANDER: They are pictures of Holy Land  
16 employees with families with tents, families living in tents  
17 and providing them services.

18          THE COURT: I am actually looking at what  
19 Mr. Westfall emailed this morning.

20          MS. HOLLANDER: Do you want to see these?

21          THE COURT: Yes.

22          MS. HOLLANDER: I am sorry. I thought that is what  
23 you were looking at. I will tie it into his testimony. I  
24 just wanted to answer the first question, which is what they  
25 were.

1 THE COURT: Okay. I have seen them. Go ahead.

2 MS. HOLLANDER: The Government introduced a  
3 conference call and played part of the conference call and  
4 didn't play part of it where the speaker actually talks about  
5 demolished homes, and that is what this goes to, because  
6 the --

7 MR. JACKS: Which exhibit are we talking about now?

8 MS. HOLLANDER: We are talking about I believe it is  
9 HLF -- Baker Wiretap No. 23. I am pretty sure it is Baker  
10 Wiretap No. 23. The Government introduced the entire call but  
11 only played part of it, and I want him to read another part  
12 which specifically talks about demolished homes.

13 And in his direct examination Agent Miranda said there  
14 was no talk in the call about anything relating to charity,  
15 and HLF had a lot of projects involving providing resources  
16 for people whose homes were being demolished. So that is why  
17 those photos are relevant. I may not use all of them.

18 THE COURT: Well, of course, you will have to see if  
19 he recognizes something about those photos to be able to lay a  
20 predicate.

21 MS. HOLLANDER: And I will.

22 The other photograph, the one off the internet --

23 THE COURT: Do you have that?

24 MS. HOLLANDER: Yes, I do.

25 THE COURT: Let me take a look at that.

1 MS. HOLLANDER: It is a photograph -- Your Honor, it  
2 is a photograph -- Let me explain. Agent Miranda talked about  
3 an individual Nihad Awad who worked for CAIR, and he  
4 specifically mentioned him in his direct, and he mentioned  
5 that he was at the Philadelphia meeting.

6 Nihad Awad was invited to the White House, and the  
7 photograph, which I will show Your Honor, is a picture of him  
8 with President Bush at the White House. It goes to  
9 impeachment.

10 What I intend to introduce is -- I want to show you the  
11 website where I got it, but I only intend to introduce the  
12 photograph.

13 THE COURT: Let me see it.

14 MS. HOLLANDER: They were at a mosque, but he was  
15 invited by President Bush, and the picture comes right off the  
16 White House -- It is a White House press release where he was  
17 invited. And you can see what -- I was not planning on  
18 anything what President Bush says. I have just provided that  
19 to the Government and the Court to know where the photograph  
20 came from. But they have talked about him, they have talked  
21 about his organization being something that came out of the  
22 Philadelphia meeting, there has been a great deal of mention  
23 about him, and that is why I think it is relevant to show that  
24 this same person that Agent Miranda is talking about that has  
25 come up throughout this case was invited to the White House

1 and met with President Bush.

2 THE COURT: Mr. Jacks?

3 MR. JACKS: Judge, I don't believe Agent Miranda  
4 testified about Nihad Awad.

5 MS. HOLLANDER: Yes, he did.

6 MR. JACKS: I don't remember him discussing that.  
7 Even if he did, this photograph downloaded from the internet,  
8 that is not a sufficient foundation. All this conversation  
9 from Ms. Hollander that, you know, he was invited to the White  
10 House, or they went to a mosque, there is nothing in the  
11 record about that. Even if it is true, that doesn't make it  
12 admissible.

13 And just that picture in and of itself, there is no  
14 foundation that can be laid through Agent Miranda to what she  
15 just -- Unless she intends to try to put it in front of the  
16 jury in the form of a question, which we would also object to,  
17 which is the purpose of us having this discussion now outside  
18 the presence of the jury.

19 There is no indication that Agent Miranda is going to be  
20 able to say when and where and under what circumstances this  
21 photograph was taken, whether it has been Photoshopped or  
22 anything else.

23 And as I said, the fact that it is downloaded from the  
24 website, that doesn't make it admissible. The predicate and  
25 the foundation still has to be laid by some competent witness.

1 And so --

2 THE COURT: Well, let's lay aside the predicate  
3 issues. If that were to be laid, do you have an objection --  
4 would you have objection to that photograph coming in?

5 MR. JACKS: Yes, sir, just on relevancy grounds.  
6 Again, relevancy in the sense that there is no context that  
7 can be provided to that. There is nobody that is going to be  
8 able to say this is what was happening, this is when it was  
9 taken, it is a fair and accurate representation of what --

10 THE COURT: I am saying let's assume that it is  
11 accurate, that what she has there with her off the internet,  
12 that is the way it happened. Let's just assume. It mentions  
13 a meeting with President Bush, has President Bush talking.  
14 Let's assume that that is accurate and correct. What would be  
15 your objection, then?

16 MR. JACKS: It is not relevant.

17 THE COURT: Not relevant to any issue?

18 MR. JACKS: Yes, sir.

19 MS. HOLLANDER: Your Honor, Agent Miranda, I mean, I  
20 somewhat recent the allegation that I may have Photoshopped  
21 something.

22 THE COURT: I don't want to get into that. Let's  
23 lay aside the predicate issues. Let's just lay that aside for  
24 now. I am getting just to the relevance of it and whether  
25 that needs to come in or should come in.

1 MS. HOLLANDER: You Know, Agent Miranda didn't  
2 mention it because Agent Miranda is telling the jury what the  
3 Government wants the jury to know about this individual and it  
4 is not complete, and that is what impeachment is for. That is  
5 why we have cross examination.

6 I believe without a doubt that Agent Miranda can identify  
7 Nihad Awad.

8 THE COURT: I am getting away from predicate, I am  
9 saying. You keep wanting to go back to predicate.

10 MS. HOLLANDER: And it goes to show that this person  
11 that the Government is saying is -- you know, these people all  
12 support Hamas and the Philadelphia meeting was all about  
13 support of Hamas is someone that the President of the United  
14 States would invite and meet and stand next to at a mosque. I  
15 think that that is important for the jury to hear.

16 And Mr. Jacks keeps saying when we have tried to redact  
17 things that we are giving the jury a false state of what the  
18 actual facts are. This is to provide facts for the jury in  
19 the form of cross examination and that -- I mean --

20 THE COURT: I am just trying to understand how that  
21 is relevant to the issues that jury has to decide,  
22 though--whether this individual was at the White House or not,  
23 how that is going to help the jury make a decision on the  
24 issues before them, the issues that they are going to have to  
25 decide about these Defendants on trial, how that is helpful to

1       that.

2               MR. CLINE:   Your Honor, can I take a swing at it?

3               THE COURT:   Yes.

4               MR. CLINE:   The Government, whether it is through  
5       Agent Burns or Agent Miranda, it might have been Burns,  
6       offered evidence that CAIR was the Americanized organization  
7       that came out of the Philadelphia meeting.  It was kind of a  
8       fraud being perpetrated on the American people; the Islamic  
9       face was hidden.  This was the American organization.

10              Nihad Awad, who I believe was at the Philadelphia  
11       meeting, was and is the head of this organization.  The  
12       Government I believe has identified him as a member of the  
13       Palestine Committee.

14              It is highly relevant that in September of 2001, during  
15       this alleged conspiracy, the President of the United States is  
16       meeting with this man, inviting him to meet with him in a way  
17       as a symbol of the good Muslims, the people in the United  
18       States we want to embrace, particularly at times like right  
19       after --

20              THE COURT:   And I understand that that that is where  
21       you would go with that, but I am still trying to understand  
22       how that is relevant to the issues that the jury has to  
23       decide.

24              MR. CLINE:   It is relevant, Your Honor, because the  
25       Government has sought to paint a picture of a kind of a secret

1 and, in a way, fraudulent sort of group of Muslims, of which  
2 our clients are alleged to be part, that has pretended to be  
3 friendly to America and peace-loving, but in reality is  
4 devoted to terrorism and supportive of Hamas. Our clients are  
5 alleged to be part of that.

6 THE COURT: But your clients are alleged to be part  
7 of that not through CAIR, but through other --

8 MR. CLINE: But they painted this big picture of all  
9 of the organizations there that were woven together. There is  
10 NAIT, there is ISNA, MAYA, CAIR. They are all woven together.  
11 This is the Government's theory, now.

12 THE COURT: Right. But what evidence has come in  
13 after the creation of CAIR that it was involved in any of the  
14 activities that these Defendants are charged with?

15 MR. CLINE: Well, the testimony was, Your Honor,  
16 that and it was very sort of portentous, let's say, that  
17 coming out of the Philadelphia meeting the idea was to turn  
18 away from sort of overt support of Hamas and turn toward a  
19 covert support for Hamas that was going to be masked in this  
20 sort of pro-American and pro-peaceful thing. And CAIR was  
21 specifically identified by Agent Burns as the organization  
22 that was going to promote this.

23 I might add, Your Honor, that CAIR has been identified by  
24 the Government as an unindicted co-conspirator in this case.  
25 So, you know, CAIR is woven into this case. And to me I can't

1 think of anything more sort of forcefully rebuts this picture  
2 the Government has painted than to have the head of CAIR, a  
3 supposed member of the Palestine Committee, one of the people  
4 on the inside of this supposed conspiracy to trick the  
5 American people and perpetrate this hoax, meeting with the  
6 President of the United States in September of 2001. What  
7 could be more probative, what could be more powerful to the  
8 jury than to see that?

9 MR. JACKS: Judge, I am concerned that we are just  
10 getting away from the rules of evidence, and I just want to  
11 address -- You know, they talk about that, you know, the  
12 Government has redacted things or prevented them from putting  
13 things into evidence. And there is a remedy for a lot of what  
14 they complain about and that is they can call witnesses,  
15 assuming the testimony is relevant, and present that.

16 My first concern is that we just have skipped over the  
17 rules of evidence in terms of how this stuff is going to come  
18 into evidence. And the traditional foundational requirements,  
19 they are not even talking about those. They immediately go  
20 to, "Well we need to do this because the Government has said  
21 this or that," and you know, the question that needs to be  
22 asked or the statement that needs to be made is, "Well, that  
23 may be true, but you can do that in your own case; you can do  
24 that through your own witnesses."

25 And I don't think there is, as with so many of these

1 exhibits, I don't think there is any foundation that has been  
2 laid from the Defense standpoint, so many of these photographs  
3 and other things that have come in, that there is no context  
4 virtually with any of those except what is provided by the  
5 attorneys through their statements.

6 That is my first concern is that they are attempting to  
7 put on their case without calling any witnesses, and I don't  
8 believe that under the rules of evidence, as we go through  
9 these things item by item, that they are able to do that. And  
10 that is -- Holding them to the rules of evidence is no worse  
11 than holding us to the rules of evidence.

12 And so that is my first concern with, you know, before we  
13 get to the issue of whether it is relevant and all that kind  
14 of thing, let's find out, first of all, if it can be properly  
15 admitted through the witness that is on the stand.

16 Now, to respond to this idea about CAIR and the fact that  
17 there is a picture of somebody standing next to the President,  
18 all this other discussion about that he had him there in  
19 September of 2001, there is nothing of that in the record.  
20 Once again, it is them, the lawyers, providing the context to  
21 the Court, and they are going to try to provide it to the jury  
22 improperly, because there is nobody that is going to get up  
23 there and say this was in 2001, this was when he was the  
24 President, this was when he was the Governor of Texas.

25 The fact that it is off the White House website, that may

1 be true, but if I have got a piece of evidence and the fact  
2 that it is true doesn't mean I can put it in evidence because  
3 it is true. That is not the test. The test is has the proper  
4 foundation been laid. The truth or the reality of the  
5 exhibit, or whatever it is, that is not the standard to  
6 determine whether it comes in or not.

7 So I would like us to get past, or not just go past that  
8 and automatically assume, "Okay, it is what you say it is  
9 because you have given me this article off the internet." But  
10 the issue with CAIR -- Okay, there is a picture of this  
11 individual standing with the President. Well, the rest of the  
12 story, as Paul Harvey says, is that he was criticized for  
13 that, and there are many reports and stories out there of  
14 Congressmen who have come out and at one time were supportive  
15 of CAIR and then as they found out about CAIR have publicly  
16 criticized and distanced themselves.

17 So that notion that a single picture presents this one  
18 position that the Defendants want to claim is not the whole  
19 story in context. And if the issue is going to become, you  
20 know, what all has CAIR done post 1993 or '95 or whatever, we  
21 are going to be here a long time. And I know that is an issue  
22 that the Court has tried to stay away from to the extent that  
23 it is not relevant. And I think this photograph falls right  
24 in that category. And, you know, if we are going to stay away  
25 from having CAIR be on trial in this case, then this

1 photograph is not relevant and should not be admitted.

2 And again, going back to the notion of, you know, even  
3 before you even get to that relevance question you have got to  
4 look at the rules of evidence and whether it can be admitted  
5 through this witness, or any witness that the Government puts  
6 on.

7 THE COURT: Mr. Cline or Ms. Duncan, you were  
8 standing up. Did you have anything you wanted to add?

9 MS. DUNCAN: Your Honor, I just had an additional  
10 point to add in terms of the relevance of the photograph.

11 The Government attempted -- They used Mr. Abu Baker's  
12 declaration where he said that the Philadelphia meeting was a  
13 meeting of the intellectual community leaders, and attempted  
14 to portray that as a lie; that this was really a dark secret  
15 meeting of people, and this picture goes to show that Nihad  
16 Awad, who was one of the members of that meeting, was in fact  
17 a leader of the Palestinian Committee. It sort of ties what  
18 Mr. Cline was saying to the evidence that has been introduced  
19 in this case as an additional point of relevance.

20 THE COURT: Thank you.

21 Mr. Cline?

22 MR. CLINE: Your Honor, I don't know if you are  
23 worried about this foundation issue.

24 THE COURT: Well, he has raised a point. Even if  
25 you go -- and I let some of the other pictures in because I

1     thought the pictures themselves, along with the agent  
2     identifying either the workers or employees, or somebody, and  
3     had "Kosovo relief," the picture appeared to be what it  
4     purported to be, which is the foundation for a picture.

5             All you can do with this picture is you can show an  
6     individual with President Bush. All this other information  
7     that you are talking about, you know, September after 9/11,  
8     none of that could come in, obviously.

9             MR. CLINE: I think foundation is an important  
10    requirement, and --

11            THE COURT: And so at that point when you just have  
12    a picture, I don't know --

13            MR. CLINE: Foundation issues are ones that we have  
14    visited often in this trial and will revisit when the  
15    Government has other exhibits to offer.

16            But if it were necessary to subpoena someone from the  
17    White House, the person in charge of the website, for example,  
18    to come and authenticate this picture, we can do that. It  
19    strikes me as an extraordinary waste of time and resources.

20            THE COURT: And I agree. Generally I agree, which  
21    is why I was getting to the relevance issue.

22            MR. CLINE: But if we have to do that, by goodness,  
23    we will issue that subpoena.

24            THE COURT: But then we have to deal with the  
25    relevance issue.

1           MR. CLINE: And on relevance, Your Honor, again what  
2 the Government wants to do here, and I am not faulting them,  
3 they are advocates just as we are, they want to open the door  
4 just enough to get in that little drop of poison, and then  
5 they want to slam it shut so we can't present any of our  
6 stuff. As soon as they put in their stuff, understandably,  
7 then when we want to put in our little bit to counter what  
8 they put in, they say, "That is too much. It is going to  
9 create a mess."

10           We are not asking to put in a bunch of stuff here. They  
11 have put in some information about CAIR. They put in Agent  
12 Burns' opinion that it was the American face going forward in  
13 '93, that was the new organization that I think Mr. Abu Baker  
14 was referring to at the end of his summary of what was going  
15 on in the Philadelphia meeting. They brought up Nihad Awad.  
16 They have shown exhibits portraying him as a member of the  
17 Palestine Committee.

18           All we want to do is put in one photograph. That is not  
19 opening the door. It is not prolonging the trial. It is not  
20 doing anything. It is just one picture.

21           MR. JACKS: Your Honor, they can also subpoena Nihad  
22 Awad. They don't have to subpoena the web host of --

23           THE COURT: Yeah, but I still think you are -- I  
24 agree that without somebody testifying to the context of the  
25 picture, all you can get a picture.

1           Clearly the picture on its face is a picture of President  
2   Bush with some individuals, and if the agent can identify that  
3   or somebody, that probably is fine in my view, because the  
4   foundation is does this appear to be what it purports to be,  
5   somebody that can testify to that. There is not any  
6   indication that that is in fact a made-up photograph.

7           MR. JACKS: I understand.

8           THE COURT: Because you can say that about any  
9   photograph that something is made up.

10          MR. CLINE: Can I interrupt? I apologize. I agree  
11   with Mr. Jacks to this extent--that if Agent Miranda cannot  
12   recognize Nihad Awad in the picture, then we can move on.

13          THE COURT: Absolutely. I am assuming that he can.

14          MR. CLINE: I am assuming he can as well.

15          THE COURT: If he can, then I am past where you are,  
16   but not as far as they are in the sense that doesn't establish  
17   2001, doesn't establish he was invited, any of that. That  
18   doesn't come in. All you have is a photograph.

19          MR. CLINE: But what it does establish is that at  
20   sometime between the time President Bush became President --

21          THE COURT: Well, but we don't know that from the  
22   picture. It doesn't say he is the President, as Mr. Jacks  
23   pointed out. We just know it is a picture of President Bush  
24   and some individuals. That is really all you can tell from  
25   the picture, because we don't have a time frame for it. The

1 agent can't testify when that was taken, like a typical  
2 sponsoring witness would testify to the time frame for the  
3 picture. You are not going to have that.

4 MR. CLINE: I think the jury could reasonably infer  
5 from the appearance of the man whom we have seen for many  
6 years that this is during his presidency, which would put it  
7 during the relevant period.

8 Now, again if that is really an issue here, we can bring  
9 somebody in from the White House to they, "Yes, that is  
10 President Bush. That is Nihad Awad. This was taken on a  
11 particular date." But why go through all that when we all  
12 know what it is about, and the jury is going to know what it  
13 is about?

14 MR. JACKS: Your Honor, I spent a few bench  
15 conferences up there having to go through this with my  
16 exhibits, so the fact that it is one exhibit, it is not one  
17 exhibit. We are seeing this throughout this case of them  
18 seeking to introduce exhibits without calling any witnesses  
19 that really would be able to provide the foundation. So  
20 admittedly it is one exhibit, but it is one of many that they  
21 have sought to introduce through this same fashion with the  
22 same shortcomings, and they want to put that picture out there  
23 and then they are going to provide the context through their  
24 statements or questions or inferences, or whatever, and I just  
25 do not believe that they are able to lay a foundation. I

1 don't know if Agent Miranda will recognize Nihad Awad or not.

2 THE COURT: And if he doesn't, the ruling on the  
3 other photos was if the agent couldn't recognize anybody in  
4 there, then it doesn't come in.

5 I am going to sustain. I don't want to keep the jury  
6 waiting much longer. I am going to sustain the objection at  
7 this point, so don't go into that at this time on cross. Let  
8 me give that some more thought as to both the foundational as  
9 well as the relevance issue.

10 I am a bit concerned, you know, like you said, this is  
11 about Hamas, but you brought CAIR into the case, and Mr. Cline  
12 has a valid point that you want to be able to talk about it  
13 but you don't want them to talk about it. And this is  
14 relevance, not to foundation. That is why I am saying let's  
15 get past this. And then you don't think -- You don't want  
16 them to get into it because then there are other issues, but  
17 yet you are the one that injected CAIR into the case.

18 And I still don't know ultimately how that will help the  
19 jury. If we got into this big fight over CAIR and whether in  
20 fact it is what the Government says it is, just the American  
21 face of the terrorist movement, or it is what CAIR purports to  
22 be, that that would help the jury resolve the issues before  
23 them; that that would help them in any way resolve those  
24 issues that are before this jury. And I am leaning towards  
25 no. It would get us into a fight over that issue. But I

1 don't know ultimately how that would help this jury.

2 MR. CLINE: Well, Your Honor, I realize you are  
3 thinking about this issue and haven't made a final  
4 determination, but if Your Honor comes down there, then we  
5 would like an instruction, let's say, that nothing that the  
6 jury has -- And I am just making this up.

7 THE COURT: I understand you are thinking out loud,  
8 too.

9 MR. CLINE: I am thinking out loud. But we want  
10 some kind of an instruction that the jury is not to consider  
11 CAIR, draw any inference against the Defendants from CAIR,  
12 that they are to disregard the testimony about CAIR. I mean,  
13 if CAIR is not going to be in this case, it has got to be not  
14 in this case, and not just partly in the case the way the  
15 Government wants to portray it, which is how it is now.

16 THE COURT: We will give that some thought.

17 MR. WESTFALL: Just one other thing, Your Honor.

18 THE COURT: One other thing. No more. All right.

19 MR. WESTFALL: That is all. You know, bias is  
20 always in play, and the credibility of Agent Miranda is  
21 something the jury certainly will have to consider, and this  
22 really goes to that as well.

23 THE COURT: I disagree that it goes to that as much  
24 as you are making it out to go to that, but I understand those  
25 issues.

1           No, no more. We have got the jury waiting. I said we  
2           are going to stop.

3           Go ahead and bring in the jury in, and go ahead and get  
4           Agent Miranda.

5                       (Whereupon, the jury entered the courtroom.)

6           THE COURT: Ladies and gentlemen of the jury, good  
7           morning. We are ready to proceed.

8           Mr. Jacks?

9                       MR. JACKS: Thank you, Your Honor.

10          Q.    (BY MR. JACKS) Good morning, Agent Miranda.

11          A.    Good morning, sir.

12          Q.    Yesterday when we broke for the day, I believe the last  
13                exhibit that we were making reference to was what had been  
14                referred to as the security document by me, but it is exhibit  
15                InfoCom Search No. 35.

16                       MR. JACKS: Mr. Lewis, could you display InfoCom  
17                Search No. 35 again on the screen?

18          Q.    (BY MR. JACKS) And Agent Miranda, is that the first page  
19                of this document that we were going through yesterday  
20                afternoon when we broke for the day?

21                       MR. JACKS: Mr. Lewis, please go to I believe it is  
22                page 12, the first page. Thank you.

23          Q.    (BY MR. JACKS) And this document is entitled "The  
24                foundations, policies, and guidelines." Correct?

25          A.    Yes, it is.

1 Q. And did you find other documents in your examination of  
2 the evidence in this case that were of a somewhat similar  
3 nature to this particular document that talks about  
4 communication and security issues, that type of thing?

5 A. Yes I did, sir.

6 Q. Are you familiar with a document that has been identified  
7 as Ashqar Search No. 15?

8 A. Yes, sir.

9 Q. And is that a document that was photographed during the  
10 search of Abdel Haleem Ashqar's house in Oxford, Mississippi  
11 in December 1993?

12 A. Correct, sir.

13 MR. JACKS: Your Honor, we would move the admission  
14 of Ashqar Search No. 15.

15 MR. CLINE: Our previous objections, Your Honor.

16 THE COURT: All right. That is overruled. That is  
17 already in evidence.

18 MR. JACKS: All right. Thank you.

19 Q. (BY MR. JACKS) Agent Miranda, is that the first page of  
20 the exhibit Ashqar Search No. 15?

21 A. Yes, it is, sir.

22 MR. JACKS: Mr. Lewis, would you mind just -- Just  
23 scroll through the first I believe it is four pages, if you  
24 would. And you can go back to the first page now.

25 Q. (BY MR. JACKS) Agent Miranda, just if you would,

1 describe this document physically in terms of what it looks  
2 like and how it is laid out.

3 A. Well, it is four pages in Arabic. It is broken up into  
4 columns and each column has a different category assigned to  
5 it.

6 Q. And it was translated from Arabic into English. Is that  
7 correct?

8 A. Yes, sir.

9 MR. JACKS: Would you go to the fifth page of the  
10 exhibit, Mr. Lewis? Thank you.

11 Q. (BY MR. JACKS) Is this the first page of the English  
12 translation of the document?

13 A. Yes, sir.

14 Q. And if you would, would you please just describe how the  
15 document is structured or organized as shown on this  
16 particular page?

17 A. Yes, sir. There are five categories, columns. Starting  
18 on the left there are the goals, there are the means of  
19 execution or meeting those goals, a time frame that is set  
20 out, the party that executed or the execution party, and the  
21 party that is responsible for following up or the follow-up  
22 party.

23 Q. And do those headings continue throughout the document?

24 A. They do, sir.

25 Q. And directing your attention to the goal column on the

1 far left, what is the first goal that is shown in that  
2 particular column?

3 A. The first goal is "Building a solid communication  
4 apparatus to facilitate communication between."

5 Q. And then the sub heading?

6 A. There is No. 1, "The inside to the inside;" B would be  
7 "The inside to the outside."

8 Q. And have we seen that term or those terms the inside and  
9 the outside earlier in this case, those references, if you  
10 will?

11 A. Yes, sir.

12 Q. And insofar as your understanding and the context in  
13 which they have been used, what does the inside mean and what  
14 does the outside refer to?

15 A. The inside is going to refer to the West Bank, to Gaza,  
16 and to the Israel in terms of how it looked in 1948.

17 Q. And the outside would be what?

18 A. Anything outside of those areas.

19 Q. Does the document itself provide any kind of definition  
20 or explanation as far as what is considered the inside?

21 A. Yes. If you go to that section "means of execution."

22 Q. All right. The second big column, the wide one?

23 A. Right. And if you look at B, it has a little checkmark  
24 by it.

25 MR. JACKS: Agent Lewis, can you maybe enlarge that

1 a little bit, that part?

2 A. Right.

3 Q. And how does that go toward defining what is considered  
4 the inside?

5 A. Well, it is still in the section on communications  
6 between the inside and the inside, and it says there  
7 "Establishing three other computer centers in the Bank," which  
8 is the West Bank, "the sector," which is the Gaza Sector or  
9 the Gaza Strip, "and 48," which is Israel as it existed in  
10 1948.

11 Q. If you would, just staying within that "means of  
12 execution" section as far as to how they are going to achieve  
13 these goals, just what is the first heading in the "means of  
14 execution"?

15 A. The first heading in the "means of execution" section is  
16 at the computer level.

17 Q. All right. And that means of execution, A, is what?

18 A. "Connecting computer machines in the existing centers in  
19 the Bank and the Sector."

20 Q. And what time is given for either that to be done or to  
21 be finished?

22 A. End of 2/90.

23 Q. February of '90, for the record?

24 A. Yes, sir.

25 Q. And who does it show to be the execution party?

1 A. Basman and Bayan.

2 Q. And have we seen or heard those names before in this  
3 case?

4 A. We have, sir.

5 Q. Who goes by the name Basman that has been mentioned in  
6 this case?

7 A. Basman Elashi.

8 Q. And who goes by the name Bayan that has been mentioned in  
9 this case?

10 A. Bayan Elashi.

11 Q. And are they related to the Defendant Ghassan Elashi?

12 A. They are his brothers.

13 Q. And has their name appeared in any documents that are  
14 part of the Palestine Committee?

15 A. Basman Elashi has shown up on the Palestine Committee  
16 list.

17 Q. All right. On the follow-up party, who is shown in that  
18 column to be the person responsible for following up on this  
19 execution?

20 A. Well, the first name is Abdel Haleem. That is the one  
21 with the line through it, and the second name is Izzat.

22 Q. And who in this case is known by the name Abdel Haleem?

23 A. That would be Ashqar.

24 Q. And in fact, you said this document was found in his  
25 house. Is that correct?

1 A. Yes, sir.

2 Q. All right. His name is marked through and the name Izzat  
3 is underneath it. Has the name Izzat appeared earlier in this  
4 case?

5 A. Yes. That is Izzat Mansour.

6 Q. And is he the same person that was tasked with doing  
7 security work at the Holy Land Foundation offices?

8 A. Yes, sir, the same individual.

9 Q. Was he on that apparatus chart as the person, the  
10 chairman of the security committee?

11 A. That is correct.

12 Q. Okay. Just to go on down, if you will, just quickly read  
13 in the other means of execution and who is responsible for  
14 them?

15 A. The means of execution, B is "establishing three other  
16 computer centers in the Bank, the Sector, and 48." The party  
17 responsible is the inside.

18 Q. I want to interrupt you because you said the Bank, the  
19 Sector, and the 48. Given your work on this case, the 48  
20 would be consistent to refer to what?

21 A. Israel particularly as it existed in 1948.

22 Q. All right. Is that the relevance of the term 48?

23 A. Yes.

24 Q. All right. And then just as far as who is charged with  
25 those responsibilities, execution and then follow up?

1 A. The execution in that "means of execution" is the inside,  
2 and the follow-up is "As above," which is a reference to  
3 Izzat, because right below it is Abdel Haleem.

4 Q. All right. And then the other executions of that goal,  
5 who is supposed to be carrying those out?

6 A. Well, the "means of execution" is "providing the inside  
7 with computers suitable for communications," and the execution  
8 party is supposed to be Izzat Mansour and Abdel Haleem Ashqar,  
9 and the follow-up party is Abu Omar.

10 Q. And who in this case has been identified as going by the  
11 name Abu Omar?

12 A. The Hamas leader Mousa Abu Marzook.

13 Q. Go ahead and go through these things they are doing or  
14 planning to do.

15 A. Right. At the computer level, again for "building  
16 communications on the inside to the inside," D is to "purchase  
17 modem machines from the two brands and providing them to the  
18 inside (4 machines)." The execution and follow up party are  
19 the same as in the previous notation, C, which is Izzat  
20 Mansour Abdel Haleem Ashqar and Mousa Abu Marzook.

21 Q. Just go through the means of execution, then and we can  
22 just read who is the follow-up party and the execution party.

23 A. Yes, sir. No. 2 at the personal level, "Agreeing on  
24 individuals to become communication points and others in case  
25 of an emergency; B, providing the inside with the ink needed

1 for written correspondence."

2 Q. And then as far as the goal of building a solid  
3 communication apparatus, the inside to the outside, what are  
4 the means of execution?

5 A. No. 1 is "purchasing 8 fax machines for the inside and  
6 another one for the outside."

7 Q. Item No. 2?

8 A. "Purchasing a fax for the outside."

9 MR. JACKS: Let's go to the next page.

10 Q. (BY MR. JACKS) Does the first goal continue on, that  
11 being "establishing or building a solid communication  
12 apparatus"?

13 A. Yes, sir, it does.

14 Q. And just what are the means of execution that are  
15 supposed to be carrying out, this goal?

16 A. Point 6 reads "Purchasing a computer which meets the  
17 committee's requirements for communication;" point No. 7 is  
18 "Purchasing a communication program and providing it to the  
19 inside;" No. 8 is "Sending delegations to the inside at a rate  
20 of one delegation every two months; and No. 9 is "Receiving  
21 delegations from the inside once every five months."

22 Q. And do you see the reference in item No. 6 above there to  
23 the committee? Is the committee within this document further  
24 defined or explained within the document?

25 A. There are references to it, indirect references.

1 Q. And in this case, what committee have we heard reference  
2 to?

3 A. The Palestine Committee.

4 Q. Is it also known as the Central Committee or referred to  
5 as the Central Committee sometimes?

6 A. Yes, it is.

7 Q. Go ahead and just go through the goals, and just read the  
8 goals and then the means of execution.

9 A. Right. The goals here, which are still under the title  
10 of "building a solid communication apparatus to facilitate  
11 communication" is now the outside to the outside, and there is  
12 three points under that--"committee members," "support  
13 points," and they reference "Egypt, Jordan, and Britain," and  
14 the "other committees." The means of execution -- Should I  
15 continue with that, sir?

16 Q. Yes.

17 A. The means of execution are now "telephone, fax, mail,  
18 computer, and personal."

19 Q. Go ahead.

20 A. Yes, sir. "Providing the points with the necessary  
21 communication devices."

22 Q. Let me ask you, do you see how in the column for "goal"  
23 it is listed "committee members" is item A, and then there is  
24 No. 1 under the means of execution? Is that correct?

25 A. Yes, sir.

1 Q. And then item B, "support points," and if you move to the  
2 right, it also has that item numbered 1. What does that  
3 indicate to you about the connection between B, "Support  
4 points, Egypt, Jordan, and Britain," and then the second No. 1  
5 in the "means of execution"?

6 A. Those two appear to be that necessary communication  
7 devices need to go to points which include Egypt, Jordan, and  
8 Britain.

9 Q. All right. And let me -- Over across you see in  
10 "execution party" for the line for "committee members"?

11 A. Yes, sir.

12 Q. And it has got the name Akram?

13 A. Right.

14 Q. All right. And has the name -- Do you recall or have you  
15 seen the name Akram in the Palestine Committee?

16 A. There is Mohammad Akram Adluni.

17 Q. All right. And do you recall if he was the author of any  
18 other documents that have been in this case?

19 A. I think he was, but I would have to be shown the  
20 documents to be certain.

21 Q. Do you recall the document that talked about the grand  
22 jihad and self-destruction of the West or inside destruction  
23 of the West?

24 A. I am familiar with it, yes.

25 Q. And do you know if he was the author of that document?

1 A. I don't know. I would have to look at that, sir.

2 Q. All right. Go ahead and resume, if you would, just the  
3 goals and then the means of execution.

4 A. Yes. Continuing on under "Means of execution," it says,  
5 "Personal communication (visits.)" And then under the goal C,  
6 the "other committees," in the "means of execution" it says  
7 "committee's secretariat."

8 Q. And is that title a title we have seen in other documents  
9 early in this case, earlier in this case?

10 A. Yes, it is, sir.

11 Q. All right. With regard to the Palestine Committee?

12 A. We have seen it in the Palestine Committee, and then  
13 there is also a reference to the secretariat with reference to  
14 the security document we have seen yesterday.

15 Q. What is the second goal that is set forth there on this  
16 page?

17 A. The second goal, 2, which is all the way to the bottom  
18 left is "Developing the communication devices."

19 Q. And just go to item No. 4 as far as a means of execution.

20 A. Item No. 4 says, "Designing communications systems in the  
21 inside and the outside and developing the systems currently  
22 used."

23 MR. JACKS: Would you go to the next page, please,  
24 Mr. Lewis?

25 Q. (BY MR. JACKS) What is the third goal that is listed

1     there on this next page?

2     A.     That is the media aspect.

3     Q.     And in terms of the subparts to that goal, what are they?

4     A.     Subpart A is "Establishing a media company headquartered  
5     in Jerusalem with an office in Chicago," and sub point B is  
6     "information exchange between the inside and the outside."

7     Q.     And then as far as means of execution, just read into the  
8     record what they list as the means of execution for  
9     information exchange?

10    A.     No. 1 is "via mail (nonurgent and non-serious material.)"

11    No. 2 is "Via computer (urgent and serious material.)"

12    Q.     And just who is the execution party on that particular  
13    item?

14    A.     That would be Izzat Mansour.

15    Q.     All right. And item No. 3?

16    A.     No. 3 is "Via fax (urgent and non-serious material.)"

17    Q.     And do you see the reference to -- Excuse me. Go ahead.  
18    Go to item C, if you would, the goal in item C.

19    A.     "Providing the inside with the approved bulletin."

20    Q.     What is the fourth goal, according to this document?

21    A.     The fourth goal is "the political aspect."

22    Q.     All right. And what are the subparts of that goal?

23    A.     Subpart A is "exchanging bulletins and magazines with the  
24    inside." Subpart B is "Making resolutions in regards to  
25    communications and news from Gaza." Subpart C is "Delivering

1 political resolutions outside to the inside and vice versa."

2 MR. JACKS: If you would go to the next page,  
3 please.

4 Q. (BY MR. JACKS) What is the fifth and final goal as set  
5 forth in this document?

6 A. It is the financial aspect.

7 Q. And what is the subpart of that goal or the elaboration  
8 of that goal?

9 A. It is "delivering funds from the outside to the inside."

10 Q. And how is it supposed to be carried out?

11 A. Point No. 1 for the means of execution for that goal is  
12 "sending checks to those in charge in the inside."

13 Q. And the -- Go ahead.

14 A. No. 2 is "Establishing commercial companies for  
15 electronics in the Bank, the Sector, and the 48." No. 3 is  
16 "strengthening al-Baraq Company."

17 Q. Do you know what al-Baraq Company refers to?

18 A. I do not.

19 Q. Okay. Go ahead.

20 A. No. 4 is "Dispatching 25 students from the inside for  
21 postgraduate studies."

22 Q. This No. 4, "Sending 25 students from the inside," that  
23 is as a means of executing the financial aspect? Is that how  
24 you read that?

25 A. Yes, sir.

1 Q. Okay.

2 MR. JACKS: Mr. Lewis, would you mind going back to  
3 InfoCom Search No. 35? And if you would, go to page 14 of  
4 that exhibit.

5 Q. (BY MR. JACKS) What is the heading on this exhibit,  
6 Agent Miranda?

7 A. "Document safety."

8 Q. Item No. 3, what is that?

9 A. Item 3 reads "Classifying documents with every committee  
10 in four categories: General, limited, private, and very  
11 private (see appendix.)"

12 Q. Did you find other evidence or documents that appeared to  
13 be consistent with these policies or Guidelines?

14 A. Yes, sir.

15 Q. I want to direct your attention -- Are you familiar with  
16 a document that was taken during the search of Ismail  
17 Elbarasse's house in August of 2004 which when translated bore  
18 the title "the trust"?

19 A. Yes, sir.

20 Q. And that document was seized in that search?

21 A. Yes, sir.

22 MR. JACKS: Judge, we would move the admission of  
23 Elbarasse Search No. 35.

24 MR. CLINE: We reiterate our previous objections.

25 THE COURT: And that is admitted.

1 MR. JACKS: Agent Lewis, would you mind  
2 showing -- Thank you.

3 Q. (BY MR. JACKS) Agent Miranda, I want you to help me  
4 because one of these documents, the security document, was  
5 InfoCom Search No. 35 and this document is Elbarasse Search  
6 No. 35, so if I misspeak please let me know.

7 With regard to Elbarasse Search No. 35, is that it, the  
8 first page of it that appears on the screen?

9 A. Yes, sir.

10 Q. And it is in Arabic. Is that correct?

11 A. Yes, sir.

12 MR. JACKS: And if you would, go to the last -- Just  
13 scroll through the pages, Agent Lewis, if you don't mind.

14 Q. (BY MR. JACKS) That is the fourth page, Agent Miranda?

15 A. Yes, sir.

16 MR. JACKS: Stop right there, please.

17 Q. (BY MR. JACKS) do you recognize that logo depicted  
18 there?

19 A. Yes, sir.

20 Q. What logo is that?

21 A. That is the symbol for Hamas.

22 Q. And the symbols that are depicted there, let's go to the  
23 top of that logo, the shape there between the two banners that  
24 come up. What does that represent?

25 A. It is either Israel or Palestine, depending on your

1 perspective.

2 Q. And the building or structure there, what does that  
3 represent?

4 A. That is the Dome of the Rock.

5 Q. Which you have testified about earlier?

6 A. Yes, sir.

7 Q. And in color is that the building that has the gold dome?

8 A. Yes, sir.

9 Q. And then what is crossed in front of the Dome of the  
10 Rock?

11 A. Two swords.

12 Q. And I am not going to ask you to translate the Arabic. I  
13 am sure it is later on.

14 MR. JACKS: If you would go to the next page,  
15 please.

16 Q. (BY MR. JACKS) And is this the first page of the English  
17 translation?

18 A. Yes, sir, it is.

19 Q. And with regard to the upper left --

20 MR. JACKS: If you would, Agent Lewis, can you go  
21 back to the first page?

22 Q. (BY MR. JACKS) Now, on that page is there handwriting on  
23 the upper left corner?

24 A. Yes, sir, there is.

25 Q. Was that there when it was seized?

1 A. Yes, it was.

2 Q. And that is in Arabic. Correct?

3 A. Yes, sir.

4 MR. JACKS: Agent Lewis, if you will go to page 7.

5 Q. (BY MR. JACKS) And what does the translation show that  
6 handwriting to be?

7 A. "Documents file for the secretariat general."

8 Q. And just what are the dates -- This was apparently a  
9 faxed document?

10 A. Yes, sir.

11 Q. What is the date of the fax?

12 A. 6/10/92.

13 Q. And with regard to the title again, just what is the  
14 title? Read the title into the record.

15 A. The title is "the trust."

16 Q. And then below that, what does it state regarding the  
17 information about this particular document?

18 A. "A special non-periodical bulletin."

19 MS. HOLLANDER: We need to approach.

20 (The following was had outside the hearing of the  
21 jury.)

22 MS. MORENO: Excuse me, Your Honor. I have  
23 Elbarasse Search No. 35 was admitted on September the 25th  
24 subject to limitations. Do you have that?

25 MR. JONAS: Your Honor, the Defense objected saying

1     it was hearsay within hearsay. I don't think, Your Honor, I  
2     -- There were certain portions that were hearsay within  
3     hearsay, but we say it is all part of a co-conspirator  
4     statement because this is all part of the Muslim Brotherhood  
5     and the Palestine Committee. We agreed at that moment that I  
6     was only going to have Agent Burns address certain portions,  
7     and clearly Agent Miranda's testimony goes beyond those  
8     certain portions, so I think the issue is still hanging out  
9     there with regard to their objection as to hearsay within  
10    hearsay.

11           THE COURT: Except he offered it and I admitted it  
12    again, and that was subject to previous objections. Do you  
13    remember the specific objections?

14           MR. JONAS: I think if I recall correctly, and I  
15    could be wrong on this, I think the ball was left in the  
16    Defense's court to identify those specific instances of  
17    hearsay within hearsay.

18           MR. MYSLIWIEC: I don't think it was left in our  
19    particular court. There are some parts of this document that  
20    have quotes from other people, and we argued that the quotes  
21    from other people certainly should be excluded because that is  
22    clearly hearsay within hearsay, and these aren't quotes  
23    alleged to be co-conspirators. They have nothing to do with  
24    the state of mind of somebody in Hamas or anything like that.  
25    So I think those were the limitations.

1           MR. JONAS: This document is, I think it says on its  
2 face, is a publication by the international Muslim Brotherhood  
3 for the various -- for Hamas for the Palestine Committees  
4 worldwide, and we have established there is a connection in  
5 this case. And anything in it is a co-conspirator statement.  
6 If there is a quote by an individual, it is sort of adopted by  
7 Hamas in creating this newsletter.

8           MR. MYSLIWIEC: But reporting on what somebody said  
9 is not adopting what somebody is saying.

10          MR. JACKS: It is not being offered to show what  
11 that person said is true. It is being included to show that  
12 this is what they are spreading to their members. It is  
13 not -- We are not saying whatever is in quotes is true or not,  
14 but this is what they are putting in their newsletter or  
15 periodical, whatever you want to call it, and they are  
16 distributing it among their members. So whatever those  
17 persons said, and some of it talks about attacks or whatever,  
18 you know, that evidence is not intended to prove that is true.  
19 It is intended to prove this is what they communicated to  
20 their members. So that part of it is not hearsay.

21          MS. MORENO: I think that the Government's position  
22 on this, Your Honor, it seems that the term co-conspirator  
23 applies to anybody who says something and that quote appears  
24 in this particular document. I think it is a rather  
25 breathtaking argument to make in this regard.

1           And I would like the Court at least to take a look at the  
2 document and see if some of those portions at least can be  
3 redacted or Agent Miranda can stay away from those portions  
4 that we originally objected to within the quotes.

5           THE COURT: I need to take a look at them. I am not  
6 going to order them to redact them if I left the objection not  
7 ruled upon, if it is still open. I haven't sustained anything  
8 yet.

9           MS. MORENO: Apparently not, Your Honor.

10          MR. JONAS: No, Your Honor.

11          THE COURT: So it is still outstanding. I have to  
12 look at them. But I still wanted to see what the quotes are,  
13 the ones you are objecting to, the hearsay within hearsay, I  
14 can't make a determination obviously without taking a look of  
15 that. Has any come up on the screen yet?

16          MR. MYSLIWIEC: I don't think so. I have a feeling  
17 they are not intending to even get into the hearsay within  
18 hearsay, but I could be wrong. Are you doing any reading  
19 where it is a reading of what someone told somebody? I  
20 suspect that they are not.

21          MR. JACKS: No.

22          MR. MYSLIWIEC: Because it is not relevant to why  
23 they want to put it in anyway. If we can agree to redact  
24 those portions because they are not even trying to have the  
25 witness testify about them.

1           MR. JACKS: I would like to see what it is. I am  
2 still looking for quotes in here.

3           MR. JONAS: I think, Your Honor, for the moment--and  
4 jump in if I am wrong--we can continue with Agent Miranda's  
5 questioning, and I think we can deal within the quotes.

6           THE COURT: If you get to a quote, we can deal with  
7 it specifically. So far you haven't run into one.

8           MR. JACKS: No.

9           THE COURT: And then we will have to deal with that  
10 issue at some point.

11          MR. JONAS: I think it is best if the Defense could  
12 identify them since it is their objection.

13          THE COURT: Identify which particular portions you  
14 are objecting to, and I will take a look at that.

15          MS. MORENO: Thank you.

16          (The following was had in the presence and hearing  
17 of the jury.)

18          MR. JACKS: Agent Lewis, would you please show the  
19 first page of -- Thank you, sir.

20 Q.    (BY MR. JACKS) Agent Miranda, is this the first page of  
21 the English translation of this document called "the trust"?

22 A.    Yes, sir.

23 Q.    And I think you were going to read above the  
24 introduction, that line above the introduction just as far as  
25 what it states.

1 A. Yes, sir. It says "A special non-periodical bulletin,  
2 Issue 1, 1 October, 1992."

3 Q. And if you would, in the first paragraph would you go  
4 down to, do you see the sentence that begins "The Movement"?

5 A. Yes.

6 Q. Just begin reading those two sentences, if you would?

7 A. There is two sentences that say "The Movement." The  
8 first or second?

9 Q. Start with the second one.

10 A. Yes, sir. "The Movement has now a weight that is taken  
11 into consideration abroad, and it is the one leading the  
12 powers that are opposed to the peaceful settlement, and it  
13 amasses all the capabilities for that purpose."

14 Q. The Movement, what organization does it refer to, that  
15 term?

16 A. Hamas.

17 Q. And how is the Movement -- What is Hamas' full name?

18 A. The Islamic Resistance Movement.

19 MR. JACKS: Go to the next paragraph, please, Mr.  
20 Lewis.

21 Q. (BY MR. JACKS) And if you would, beginning where it says  
22 "Due to all of this," would you begin reading there?

23 A. "Due to all of this, it was decided to issue a private  
24 non-periodical bulletin dealing with all the aforementioned  
25 (the Movement's positions and news, news of the inside,

1     directions...)). The first issue of 'The Trust' is between  
2     your hands, and we ask God to help us and you to fulfill the  
3     proper duty towards the trust. We find it necessary to make  
4     some remarks which should be observed precisely."

5     Q.   And just the reference to "the first issue is between  
6     your hands," what does that indicate to you?

7     A.   We are giving it to you, and you have got to take care of  
8     it.

9     Q.   You are looking at it?

10    A.   Yeah.

11    Q.   All right. Go ahead. The part about remarks that should  
12    be observed precisely, would you read those three remarks?

13    A.   Yes, sir. No. 1, "The bulletin is specifically for the  
14    brothers, the Masuls of (Palestine Committee in every country  
15    only), and it is the trust in their necks."

16           Point 2, "The brothers are to study the bulletin in the  
17    periodical meeting of the committee, and it is not to be  
18    photocopied, meaning that the original copy should remain the  
19    only one."

20           Point 3, "The brothers should work on spreading the  
21    contents of the bulletin and the ideas contained in it among  
22    the Ikhwan and the collective Islamists."

23    Q.   And these comments about the document being a trust in  
24    their neck, in that it is not to be photocopied and should  
25    only -- should be the only copy, is that relating back to the

1 security document and the document security issues that you  
2 observed in that document?

3 A. Yes, sir.

4 MR. JACKS: If you would, go to the next page.

5 Q. (BY MR. JACKS) And does this document, then, purport to  
6 convey the information that it indicated it was intended to  
7 convey?

8 A. Yes, sir.

9 Q. All right. What is heading there on the first page?

10 A. "News on the inside."

11 MR. JACKS: If you would, go to the next page.

12 Q. (BY MR. JACKS) And the first heading there?

13 A. "Eliminating collaborators."

14 Q. And would you just read, say, the first half of that  
15 paragraph?

16 A. Yes, sir.

17 Q. I am sorry. Read that whole paragraph.

18 A. Yes, sir. "At home, Hamas was distinguished by its  
19 effective role in killing collaborators. It chooses the most  
20 dangerous ones among them, interrogates him, takes his  
21 confessions, records it on tape, and fears God in what it  
22 does. It has murdered a dangerous collaborator called  
23 (Ibrahim Salamah) in Gaza. Fatah has claimed a collaborator  
24 and considered him a martyr holding a very large eulogy for  
25 him. Hamas then made public the tape of his confessions

1 during the interrogation and issued a statement clarifying the  
2 matter in its entirety and severely blaming Fatah for these  
3 actions. It is strange that the said collaborator had taken  
4 part with the special Israeli units in killing masked people  
5 to the point he shot a cousin of his who was masked."

6 MR. JACKS: And if you would, go to the right hand  
7 column?

8 Q. (BY MR. JACKS) What is the heading for the right hand  
9 column?

10 A. "Prisoners' release."

11 Q. Just read that paragraph?

12 A. " Hamas Movement issued a statement at home denouncing the  
13 size of the unfair releases by the enemy's authorities, as  
14 most of those released by instructions from Rabin as a good  
15 faith initiative toward the Palestinian people are from the  
16 Fatah Movement. It proved that in numbers, as the total  
17 number of those released in all areas from Fatah are (270) and  
18 only (17) from Hamas."

19 MR. JACKS: And go to the next page, Agent Lewis.

20 Q. (BY MR. JACKS) Do you see the heading entitled  
21 "positions"?

22 A. Yes, sir.

23 Q. And just read the first -- the introductory paragraph  
24 under that heading?

25 A. Yes, sir. It reads, "The Movement has decided to adopt

1 the following position from the self-rule: Rejecting the  
2 administrative self-rule, rejecting the elections related to  
3 it, refusing to take part in them, and calling upon the  
4 Palestinian people to boycott them. Based on that, the  
5 Movement has decided to take the following steps."

6 Q. And then are there a series of numbered items there?

7 A. Yes, sir.

8 Q. And what is item No. 5, if you would read that?

9 A. Item No. 5 is "Escalating jihad actions against the  
10 Zionist enemy."

11 MR. JACKS: Would you go to the next page, please,  
12 Agent Lewis?

13 Q. (BY MR. JACKS) And is there a heading there in this  
14 periodical, the topic "meetings"?

15 A. Yes, sir.

16 Q. And if you would, can you see just read the first  
17 sentence or two under that title "meetings"?

18 A. "The Movement delegation conducted several meetings and  
19 made contacts with some Palestinian powers and personalities  
20 during the past September. The most important topic was the  
21 self-rule and how to confront it and derail it, working to  
22 develop the Intifada and to attempt to mobilize the powers of  
23 our people where they exist."

24 Q. All right. And do you see beneath that they list  
25 meetings that took place? Do you see that?

1 A. Yes, sir.

2 Q. And you see item No. 3 making reference to a meeting  
3 between Hamas and something called "The Popular, the  
4 Democratic, and the General Command." Do you know what the  
5 Popular, the Democratic, and the General Command are?

6 A. Those are three terrorist groups.

7 Q. What are they called?

8 A. The PFLP.

9 Q. What does that stand for?

10 A. Popular Front for the Liberation of Palestine.

11 Q. All right.

12 A. There is the DFLP, the Democratic Front for the  
13 Liberation of Palestine, and then there is a Popular Front for  
14 the GC, General Command.

15 Q. And are those organizations all designated terrorist  
16 groups?

17 A. Yes.

18 Q. And as far as the discussions or the topics, what were  
19 the fundamentals that were discussed during that meeting with  
20 those groups? A and B is what I am asking you to read into  
21 the record.

22 A. Yes. A is "Self-rule and means to derail it, and B is  
23 "The Intifada, its continuation and development."

24 Q. If you would, there is a reference -- Do you see item  
25 No. 6? Go to the next column on the top right. And read the

1 first couple of sentences of item No. 6.

2 A. "The Movement delegation met with (9) Palestinian  
3 factions in Damascus over three days. These factions have  
4 approved a joint work plan to confront the self-rule, escalate  
5 jihad and armed resistance against the Zionist enemy, and also  
6 to call for a general strike on 9/23 in all the areas where  
7 Palestinians exist inside the occupied territories, Jordan,  
8 Syria, and Lebanon in order to express the rejection to the  
9 current settlement draft." Shall I continue, sir?

10 Q. No. That is fine. Thank you.

11 A. Yes, sir.

12 Q. Let me ask you --

13 MR. JACKS: Go to the last page, before I move from  
14 that. It will be page 17 of the exhibit, Mr. Lewis.

15 Q. (BY MR. JACKS) And at the bottom, would you read,  
16 please, just the translation at the bottom?

17 A. Yes, sir. The one in bold?

18 Q. Yes.

19 A. "A slogan to be adopted in the sixth anniversary for the  
20 start of the blessed Intifada."

21 Q. The first Intifada broke out in December of 1987. Is  
22 that correct?

23 A. Yes, sir.

24 Q. And the sixth anniversary, then would be December of what  
25 year?

1 A. '92.

2 Q. Or is it '93? I always get, depending on when it  
3 started, whether it is the start of the sixth year or --

4 A. Yeah. Right.

5 Q. Okay. And then the logo is translated, or the terms?

6 A. "Palestine, the Islamic Resistance Movement, Hamas."

7 Q. And that is what is written on the logo on those banners  
8 that we saw?

9 A. Yes, sir.

10 Q. Okay. Going back to this security document --

11 MR. JACKS: If you would, Agent Lewis, InfoCom  
12 Search No. 35, if you could pull that up, please. And if you  
13 would go to page 20 of the exhibit.

14 Q. (BY MR. JACKS) What is the captioned policy No. 7 at the  
15 bottom?

16 A. "Safety of offices and firms."

17 MR. JACKS: Would you go to the next page, please?

18 Q. (BY MR. JACKS) And do you see there is, like beginning  
19 No. 3, 4, 5, there are these policies and guidelines that are  
20 listed. Is that correct?

21 A. Yes, sir.

22 Q. Go down, please, to item No. 12. And what is the policy  
23 that is set forth for item No. 12?

24 A. It is, "Conducting necessary maintenance measures for the  
25 foundation (individuals, location, equipment) and using

1     advanced equipment for that."

2     Q.   All right.  And it says the word "foundation" in that  
3     sentence.  Correct?

4     A.   Yes, sir.

5     Q.   "The foundation."  Did you find any evidence indicating  
6     that the Holy Land Foundation attempted to do anything that  
7     would be consistent with this policy or guideline?

8     A.   Yes, sir.

9     Q.   Are you familiar with what has been marked for  
10    identification purposes as Holy Land Foundation Search No. 91?

11    A.   Yes, sir.

12    Q.   And is that a document, a paper document or series of  
13    pages that was found within the premises or the material taken  
14    from the Holy Land Foundation?

15    A.   Yes, sir.

16    Q.   Its Dallas office?

17    A.   Yes, sir.

18               MR. JACKS:  Judge, we move the admission of Holy  
19    Land Foundation Search No. 91.

20               MR. CLINE:  No objection.

21               THE COURT:  Admitted.

22               MR. JACKS:  Could you display the first page of  
23    that?

24    Q.   (BY MR. JACKS)  Agent Miranda, do you recognize this as  
25    the first page of Holy Land Foundation No. 91?

1 A. Yes, sir, I do.

2 Q. And does it appear to be a letter?

3 A. Yes, sir.

4 Q. And on whose letterhead is this letter created?

5 A. The Executive Protection Group, Incorporated.

6 Q. At the top of the letter, is there a statement or saying?

7 A. Yes, sir, there is.

8 Q. Just read it into the record, please.

9 A. "With Allah's Name, The Merciful Benefactor, The Merciful  
10 Redeemer."

11 Q. And who is the letter addressed to?

12 A. It is addressed to the Defendant Shukri Abu Baker.

13 Q. And the date?

14 A. It is dated 29 July, 2000.

15 Q. And the subject matter according to the reference there  
16 below the address?

17 A. "Technical surveillance countermeasures. Basic RF sweep  
18 results and recommendations."

19 Q. And RF in your experience and background is an acronym  
20 for what?

21 A. Radio frequency.

22 Q. All right. And if you would, just read the letter,  
23 please?

24 A. Yes, sir. "Dear Brother Baker, As-Salaamu-Alaikum. This  
25 letter is to thank you and your organization for allowing EPG,

1 Inc. to provide a Basic RF Counter-Surveillance Sweep of your  
2 facilities on Wednesday 23 August, 2000. We were pleased to  
3 provide this service as a 50 percent discount, as a small  
4 contribution to your on-going work on behalf of the community.  
5 Al-Hamdulillah!

6 "Following please find a Statement of Results for the  
7 sweep, as well as information regarding Technical Surveillance  
8 Countermeasures and Recommendations for your specific  
9 situation."

10 Q. All right. That is fine. You don't need to read the  
11 rest of the letter.

12 A. Yes, sir.

13 Q. And who signed the letter?

14 A. An individual by the name of Shihan Dr. F.D. Hale.

15 Q. What title does he put for himself?

16 A. President and CEO of EPG and regional director of  
17 security, Muslim American Society.

18 MR. JACKS: Would you go to the next page, Agent  
19 Lewis?

20 Q. (BY MR. JACKS) And is this the referenced page that  
21 contains statement of results?

22 A. Yes, sir.

23 Q. All right. And would you please read the first two  
24 paragraphs under that statement of results?

25 A. It reads, "On Wednesday, 23 August, 2000, after the close

1 of normal business hours, Executive Protection Group, Inc.  
2 performed a Technical Surveillance Countermeasures Basic RF  
3 Sweep of the Holy Land Foundation for Relief and Development  
4 facility located at 504 International Parkway, Suite 509,  
5 Richardson, Texas, 75081.

6 "The Basic RF Counter-Surveillance Sweep determined that  
7 certain aspects within the facility, and therefore the  
8 Foundation, have been under technical surveillance by unknown  
9 entities for an undetermined period of time. At the time of  
10 the sweep, certain recommendations were made regarding these  
11 findings, as well as some general suggestions."

12 Q. And just from your reading of that paragraph, as far as  
13 the results of this purported examination, is there any  
14 indication that this individual located any kind of electronic  
15 surveillance or was saying there was any kind of electronic  
16 surveillance there?

17 A. I don't think so, based on what he is saying.

18 Q. Does he anywhere in this document further elaborate on  
19 what his opinion was?

20 A. No.

21 Q. Okay.

22 MR. JACKS: Agent Lewis, would you go back to  
23 InfoCom Search No. 35, page 19?

24 Q. (BY MR. JACKS) The heading on this page of this security  
25 document for policy, No. 35, or whatever is what, Agent

1 Miranda?

2 A. "Travel and transportation safety."

3 Q. What is the second guideline or policy described there?

4 A. It is, "Providing a suitable cover for travel (commerce,  
5 tourism, visiting relatives) and supporting it with documents,  
6 commercial samples, catalogs, or tourist brochures. Also  
7 achieving this pretext in the visited country by taking  
8 tourist tours, making commercial meetings or reaching  
9 bargains."

10 Q. All right. Did you find anything in your examination of  
11 the evidence in this case that indicated that the Holy Land  
12 Foundation or any of the Defendants did anything that would  
13 appear to be consistent with this policy?

14 A. Yes, sir.

15 Q. Are you familiar with the document which has been labeled  
16 for identification purposes as InfoCom Search No. 36?

17 A. Yes, sir.

18 Q. And is that a document that was seized from the premises  
19 of InfoCom during its search in September of 2001?

20 A. Yes, sir.

21 MR. JACKS: Judge, we move the admission of InfoCom  
22 Search No. 36 if it has not already been admitted.

23 MR. CLINE: I am not sure if it has been. We object  
24 on the grounds stated.

25 THE COURT: No. 36 has not been admitted. And that

1 objection is overruled. That is admitted.

2 Q. (BY MR. JACKS) Agent Miranda, is InfoCom Search No. 36  
3 shown on the screen?

4 A. Yes, sir.

5 Q. And that is a one-page document in English?

6 A. Yes, sir.

7 Q. And does it appear to be a letter?

8 A. Yes, sir.

9 Q. And to whom is it addressed?

10 A. To the Embassy of Saudi Arabia, Counselor Section,  
11 Washington, D.C.

12 Q. Does it bear a date?

13 A. It does, sir, dated January 2nd, 1996.

14 Q. And it is addressed to "Dear Counselor"?

15 A. Yes, sir.

16 Q. And if you would read the contents of the letter.

17 A. It reads, "I would like you to assist Mr. Akram Mishal in  
18 obtaining a business visa to visit our offices in Saudi  
19 Arabia. He carries a United States of America passport  
20 No. 014856775 issued in Washington, D.C. on June 3rd, 1992 and  
21 valid till June 2nd, 2002. Mr. Mishal represents InfoCom  
22 Corp. and works as its International Sales Manager. His visit  
23 to us is very much needed to strengthen the existing relations  
24 between our companies. United International represents  
25 several products and services that InfoCom Corp. provides

1     since 1990."

2     Q.     And Akram Mishal is who?

3     A.     Akram Mishal was an officer at the Holy Land Foundation  
4     and relative of the Defendant Mufid Abdulqader.

5     Q.     And was Akram Mishal, in any records that you looked at,  
6     that he was an employee of InfoCom?

7     A.     No, he was never an employee of InfoCom.

8     Q.     In your investigation, did you look at the payroll  
9     records of InfoCom?

10    A.     I did.

11    Q.     Did you look at records with the Texas Workforce  
12    Commission to see who should to have earned wages at InfoCom,  
13    or any company such as that?

14    A.     I did.

15    Q.     Anything to indicate -- Did you find anything to indicate  
16    that Akram Mishal worked for InfoCom?

17    A.     No, I found nothing.

18    Q.     It represents in this letter that he works for InfoCom  
19    and works as its international sales manager. Is that true?

20    A.     No.

21    Q.     Who was the international sales manager for InfoCom?

22    A.     The Defendant Ghassan Elashi.

23    Q.     And where was this letter found?

24    A.     In Ghassan Elashi's office at InfoCom.

25    Q.     This letter is signed by -- not signed, but it bears the

1 typed name of what?

2 A. Mansour Alnaser.

3 Q. Do you have any idea who that is?

4 A. I think he was related to the company that is mentioned  
5 here, United International. It sounds familiar to me.

6 Q. All right. Was this letter as we see it -- Excuse me.  
7 This letter was in English when it was found. Correct?

8 A. Yes, sir.

9 Q. And so there was no signature on this letter. Is that  
10 correct?

11 A. No, sir.

12 Q. Did you find other examples in your examination of the  
13 evidence indicating that the Holy Land Foundation or any of  
14 its employees or the Defendants may have on other occasions  
15 taken steps to travel under false pretenses?

16 A. Yes, sir.

17 Q. Are you familiar with documents which have been  
18 identified as HLF Search No. 89?

19 A. Yes, sir.

20 Q. And are those a series of documents that were seized  
21 during the search of the Holy Land Foundation Dallas office  
22 materials?

23 A. Yes, sir.

24 MR. JACKS: Judge, we move the admission of Holy  
25 Land Foundation Search No. 89.

1 MR. CLINE: No objection.

2 THE COURT: That is admitted.

3 Q. (BY MR. JACKS) Agent Miranda, on the screen there before  
4 you, is that the first page of Holy Land Foundation Search  
5 No. 89?

6 A. Yes, sir.

7 Q. And does it appear to be a letter?

8 A. Yes, sir.

9 Q. And on whose letterhead is the letter prepared?

10 A. It is for a company you can see the name in the upper  
11 left hand corner Jamjun Advanced Technology.

12 Q. All right. And below that to whom is the letter  
13 addressed?

14 A. It is addressed to the Consular Section of the Saudi  
15 Embassy.

16 Q. And the H.E., the ambassador, and then the custodian of  
17 the Two Holy Mosques Embassy, is that a reference to Saudi  
18 Arabia?

19 A. That is correct.

20 Q. The Two Holy Mosques being located in Saudi Arabia?

21 A. Yes, sir.

22 Q. All right. And the subject matter of this letter,  
23 according to the letter?

24 A. The subject matter is "Request for issue a visit visa."

25 Q. And just the body of the letter, if you would just read

1       that into the record.

2       A.     It reads, "Dear Sir, we are in urgent need to have Mr.  
3       Shukri Ahmad Baker and Mr. Akram Mishal, whose particulars are  
4       given below, with us in Jeddah for consultation of some  
5       important business related to our firm."

6       Q.     And then it contains identifiers for Akram Mishal and  
7       Shukri Ahmad Baker. Is that correct?

8       A.     Yes, sir.

9       Q.     And the closing paragraph or sentence, read that, please?

10      A.     "We request you to kindly issue a visit visa to above  
11      gentlemen to enable them to visit us in Jeddah and Riyadh as  
12      soon as possible."

13      Q.     And then it is signed by this Marwad Ahmed Jamjun?

14      A.     There is a signature there, yes, sir.

15             MR. JACKS: Go to the next page, please.

16      Q.     (BY MR. JACKS) And this is an Arabic part of this  
17      exhibit, Agent Miranda?

18      A.     Yes, sir.

19      Q.     All right.

20             MR. JACKS: And if you would, go to the next page.

21      Q.     (BY MR. JACKS) This page of the exhibit was also  
22      connected, found with this letter?

23      A.     Yes, sir.

24      Q.     And what is depicted on its page 3 of the exhibit? What  
25      is this document?

1 A. This is a visa application for Saudi Arabia.

2 Q. Now, I take it you have traveled overseas a fair amount.  
3 Is that correct?

4 A. Yes, sir.

5 Q. And just in layman's terms, what is a visa?

6 A. A visa is something that has to go in your passport which  
7 tells you basically how long you are allowed in a country.

8 Q. And are there certain countries that require a visa and  
9 certain countries that don't require a visa?

10 A. Yes. Depending on which country you are from, there are  
11 visa requirements or those visa requirements are waived.

12 Q. And are there instances where, depending if you are  
13 traveling on business as opposed to pleasure, under one  
14 circumstance you may be required to obtain a visa and under  
15 another circumstance you may not be required to have a visa?

16 A. Right. Or official government travel, for instance, also  
17 applies.

18 Q. And as far as who decides whether you need a visa or not  
19 in the policies, is that something that is subject to the  
20 country that you are visiting?

21 A. Right. The country you are visiting decides whether or  
22 not a visa is required of you.

23 Q. For example, if I wanted to take a trip to the Czech  
24 Republic, for example, where would I go to find out if I need  
25 a visa, and if I did where would I go from the United States

1 to try to obtain a visa?

2 A. Generally you can go on to the internet to the State  
3 Department, our State Department's websites, and those  
4 generally give you good information. But you could also look  
5 up the Embassy of the country you are going to, in this case  
6 your example the Czech Republic, and you would see what the  
7 visa requirement is for somebody that wants to come over for  
8 business or pleasure or official travel, depending on what  
9 your circumstances are.

10 Q. And are visas issued by the government of the country you  
11 are going to visit?

12 A. Yes. You generally turn in your passport and they put  
13 the visa in the passport.

14 Q. Okay. So if you want a visa and you are going somewhere,  
15 you have to make contact with some representative of that  
16 country's government?

17 A. That is correct.

18 Q. And it can be done through the embassy or the consular's  
19 office which may be around the country. Is that right?

20 A. Generally, yes, sir.

21 Q. So whose visa application is this?

22 A. This is the visa application for the defendant Shukri  
23 Baker.

24 Q. And if you will, it has various personal identification.  
25 Is that correct?

1 A. Yes, sir.

2 MR. JACKS: Agent Lewis, I just want to identify the  
3 date. If you could go down to about the bottom quarter of the  
4 page.

5 Q. (BY MR. JACKS) And do you see a date there, Agent  
6 Miranda, when this document was signed?

7 A. Yes, sir, 4/3/01.

8 Q. And does it appear to be signed by Shukri Baker?

9 A. Yes, sir.

10 Q. And if you would, continue --

11 MR. JACKS: If you would, go back up, Agent Lewis,  
12 to the middle of the page.

13 Q. (BY MR. JACKS) And where it says "purpose of travel."

14 A. Yes, sir.

15 Q. And there are some boxes there that can be checked or  
16 filled in?

17 A. Yes, sir.

18 Q. What markings are there?

19 A. There is two markings. There is a circle and some lines  
20 for work and then there is a circle around "visit."

21 Q. Okay.

22 MR. JACKS: And if you would, go back down, Agent  
23 Lewis, to the bottom.

24 Q. (BY MR. JACKS) If you would, is there information  
25 provided there to be filled in by the applicant?

1 A. Yes, sir.

2 Q. And what does it say about what is the information filled  
3 in there?

4 A. It says, "The name of the applicant is Shukri Ahmad  
5 Baker. His nationality is USA. Company name is InfoCom  
6 Corporation."

7 Q. Is there an address?

8 A. Yes. That is the address for InfoCom.

9 Q. That is the address for InfoCom. Correct?

10 A. Yes, sir, it is.

11 Q. That we saw on the map yesterday?

12 A. Yes, sir.

13 Q. All right. And I will ask you the same question about  
14 Akram Mishal. Did you find any evidence indicating that  
15 Shukri Abu Baker worked for InfoCom or was an employee of  
16 InfoCom?

17 A. No, he was never an employee or worked for them.

18 Q. All right.

19 MR. JACKS: Would you go to the next page?

20 Q. (BY MR. JACKS) Is this simply a duplicate of the letter  
21 that was shown on the first page of the exhibit?

22 A. Yes, sir, it appears to be a duplicate.

23 Q. And this handwriting and that such a thing, was it on  
24 there when it was seized?

25 A. Correct.

1                   MR. JACKS:   Would you go to the next page, which I  
2 think is page 35.

3       Q.     (BY MR. JACKS)   And is this another visa application,  
4 Agent Miranda?

5       A.     It is, sir.

6       Q.     And who is this for?

7       A.     This is for the HLF officer Akram Mishal.

8                   MR. JACKS:   And if you would, go down to the purpose  
9 of travel.   Let me --

10      Q.     (BY MR. JACKS)   Do you see where it says business address  
11 and telephone number?

12      A.     Yes.

13      Q.     What did Akram Mishal put in there?

14      A.     InfoCom Corporation, 630 International Parkway, Suite  
15 100, Richardson, Texas, and there is a telephone number as  
16 well.

17      Q.     What did he mark as the purpose of travel?

18      A.     He marked "visit."

19      Q.     And the dates of travel, are those shown there under  
20 "date of departure"?

21      A.     The date of departure was April 20th, '01; the date of  
22 arrival is April 15th, '01; and the duration of the stay is  
23 seven days.

24      Q.     All right.   So I don't know if it is in reverse order, I  
25 guess as far as the country the date you are going to arrive

1 in you are visiting, and the date you are going to leave?

2 A. The date of arrival in the country is April 15th, '01 and  
3 the date of departure is April 20th, '01.

4 MR. JACKS: And if you would go down and show the  
5 date this was signed and who signed it.

6 Q. (BY MR. JACKS) Do you see that, Agent Miranda?

7 A. I do, sir.

8 Q. What date was it signed and by whom?

9 A. 4/3/01 by Akram Mishal.

10 Q. And if you go on down to the part completed by the  
11 applicant, what does he show as his company name?

12 A. InfoCom Corporation.

13 Q. And again the same address?

14 A. Yes, sir.

15 MR. JACKS: And if you would, go back to page 3, the  
16 application for Shukri Abu Baker.

17 Q. (BY MR. JACKS) The part up there about where the  
18 business address, on that particular application is there  
19 anything filled in for the business address?

20 A. No, sir.

21 Q. All right. At the bottom, though, he does represent that  
22 he works for InfoCom Corporation. Is that correct?

23 A. Yes, sir.

24 MR. JACKS: If you would just scroll through the  
25 pages. Go to the next page, please, the next one, and the

1 next one.

2 Q. (BY MR. JACKS) And is that a photocopy of the inside of  
3 Akram Mishal's passport?

4 A. Yes, sir.

5 MR. JACKS: And the next page, please, Mr. Lewis.

6 Q. (BY MR. JACKS) Does that purport to be a photocopy of  
7 the first page inside cover of Shukri Abu Baker's passport?

8 A. Yes, sir.

9 MR. JACKS: If you would, go to page 9, please.

10 Q. (BY MR. JACKS) And is this -- Can you see that, Agent  
11 Miranda?

12 A. Yes, sir.

13 Q. And the date that is translated -- There was an Arabic  
14 version of this letter in there. Correct?

15 A. Yes, sir.

16 Q. Is this the translation of that Arabic page?

17 A. Yes, sir.

18 Q. And the date that was translated as being the  
19 corresponding date?

20 A. 4/21/2001.

21 Q. All right. And this activity of representing themselves  
22 as employees of InfoCom, was that something that you noticed  
23 as it relates to this security document and the policies set  
24 forth in there?

25 A. Yes, sir.

1 Q. Did you ever locate any evidence that might have been  
2 relevant or explanatory or pertinent to this trip that was  
3 referenced in this earlier exhibit?

4 A. Yes, sir.

5 Q. And are you familiar with HLF Search Warrant No. 90?

6 A. Yes, sir.

7 Q. And was that a document seized from the offices of the  
8 Holy Land Foundation in Dallas?

9 A. Yes, sir.

10 MR. JACKS: Judge, we move the admission of HLF  
11 Search Exhibit No. 90.

12 MR. CLINE: No objection.

13 THE COURT: Admitted.

14 Q. (BY MR. JACKS) And Agent Miranda, is that the first page  
15 of this exhibit?

16 A. Yes, sir.

17 Q. And was it a one-page document in Arabic?

18 A. Yes, sir.

19 Q. On the Holy Land Foundation letterhead?

20 A. Correct.

21 MR. JACKS: If you would, go to the next page,  
22 please.

23 Q. (BY MR. JACKS) And is this a translation of that  
24 one-page Arabic document?

25 A. Yes, sir.

1 Q. And does it appear to be a letter of some type?

2 A. Yes, sir.

3 Q. And if you would, it is on Holy Land Foundation  
4 letterhead?

5 A. Correct.

6 Q. What is the date shown on the letter, please?

7 A. 6/18/2001.

8 Q. And to whom is it addressed?

9 A. To the honorable Mr. Ghalib al-Hamad.

10 Q. And if you would, where it begins "We at your  
11 Foundation," would you just read those two paragraphs, the  
12 body of the letter?

13 A. Yes, sir. It reads, "We at your Foundation, the Holy  
14 Land Foundation for Relief and Development, are pleased to  
15 offer our most sincere prayers to God to protect you, care for  
16 you and to bless your efforts to serve Islam and Muslims'  
17 issues, and may He accept from us and you the best of deeds.

18 "We write this letter to your honorable person hoping to  
19 visit you during our upcoming visit to The Kingdom of Saudi  
20 Arabia in the company of the Foundation's General Director,  
21 Mr. Shukri Abu Baker, during the last week of the current  
22 month, hoping that you allow us to visit you on the 27th or  
23 the 28th of the current month in order to introduce the  
24 achievements of the Foundation during the al-Aqsa Intifada and  
25 to inform you of the Foundation's goals and projects."

1 Q. And the al-Aqsa Intifada refers to what, Agent Miranda?

2 A. The second Intifada.

3 Q. Now, the second Intifada, is that another uprising?

4 A. It is.

5 Q. And when did it initiate or begin?

6 A. 2000 or late 1999.

7 Q. All right. And who signed this letter?

8 A. Akram Mishal.

9 Q. And the same individual that was depicted in the earlier  
10 visa applications and that you have testified about in this  
11 case?

12 A. Yes, sir.

13 Q. And this Ghalib al-Hamad, what organization or entity is  
14 he associated with?

15 A. I believe he is associated with the Islamic Development  
16 Bank.

17 Q. And is that a bank located in Saudi Arabia or  
18 headquartered in Saudi Arabia?

19 A. Yes, sir.

20 MR. JACKS: Your Honor, I am going to switch topics  
21 for a second.

22 THE COURT: Let's take the morning break. Be back  
23 at five after 11:00.

24 (Whereupon, the jury left the courtroom.)

25 THE COURT: We will be in recess.

1 (Brief Recess.)

2 THE COURT: Mr. Jacks?

3 MR. JACKS: Thank you, Your Honor.

4 Q. (BY MR. JACKS) Agent Miranda, in the course of your  
5 investigation, in preparing for your testimony did you -- We  
6 have already seen one demonstrative exhibit that you have  
7 assisted in preparing in connection with the utilization of  
8 Izzat Mansour to conduct a security check at the offices of  
9 the Holy Land Foundation.

10 A. That is right, sir.

11 Q. And are there other demonstrative exhibits that you  
12 assisted in preparing that are illustrative of your testimony  
13 and to pull together certain parts of your testimony to  
14 demonstrate the subject matter of your testimony?

15 A. Yes, sir.

16 Q. You testified about the familial relationships between  
17 the Defendants and other persons at the Holy Land Foundation,  
18 and members of Hamas. Do you recall that testimony?

19 A. Yes, sir.

20 Q. And did assist in preparing a demonstrative exhibit that  
21 summarizes those relationships, as you testified in your  
22 examination of the evidence, that would be useful in  
23 illustrating that testimony?

24 A. Yes, sir.

25 MR. JACKS: Your Honor, the Government at this time

1 would move the admission of Demonstrative No. 6, which is that  
2 exhibit, and at the present time we have it in electronic  
3 version only, but we would move the admission of Demonstrative  
4 No. 6, which illustrates the familial relationships Agent  
5 Miranda testified about.

6 THE COURT: Counsel?

7 MR. DRATEL: Your Honor, just my prior objection,  
8 Your Honor.

9 THE COURT: All right. And that is overruled and  
10 demonstrative No. 6 is admitted.

11 MR. JACKS: And I will ask, Agent Lewis, if you can  
12 post Demonstrative No. 6 on the screen there.

13 Q. (BY MR. JACKS) Agent Miranda, can you see Demonstrative  
14 No. 6 on the screen?

15 A. Yes, sir.

16 Q. And just the heading for the document or the exhibit  
17 itself is what, if you would read that into the record?

18 A. "HLF's familial relationships to Hamas leaders overseas."

19 Q. Okay. And the individuals that are listed, the writing  
20 beneath their pictures identifies them. Is that correct?

21 A. Yes, sir.

22 Q. And if you would, in some of them are some of them  
23 represented in same photographs that appear on Demonstrative  
24 No. 17?

25 A. Yes, sir.

1 Q. Okay. The first individual that is shown in the upper  
2 left hand corner is who?

3 A. Khalid Mishal.

4 Q. And he is shown here on the top row far left. Is that  
5 correct? On Demonstrative No. 17?

6 A. Yes, sir.

7 Q. And what connections are shown to Khalid Mishal with any  
8 Defendants or individuals with the Holy Land Foundation, if  
9 you would just walk us through and narrate the connections  
10 that you testified about?

11 A. Right. On the screen if you look at Khalid Mishal, there  
12 is a line going to HLF officer Akram Mishal because they are  
13 cousins. Then there is a line going to the Defendant Mufid  
14 Abdulqader because they are half brothers. Then there is a  
15 line from Khalid Mishal to Mufida Abdulqader, his sister.

16 Q. All right. And if you would, the second individual to  
17 the right of Khalid Mishal is Mohammed Siam?

18 A. Yes, that is correct.

19 Q. And that picture is the same as the picture shown here on  
20 Demonstrative No. 17?

21 A. It is a portion of it, yes.

22 Q. Okay. And what are the family connections shown by this  
23 exhibit, as you testified yesterday?

24 A. Mohammed Siam's son Mahmoud is married to Mufida  
25 Abdulqader, the sister of the Defendant Mufid Abdulqader and

1 the sister of the Hamas leader Khalid Mishal. And then  
2 Mohammed Siam's daughter Raida Siam is married -- you follow  
3 that line all the way down to Islam Siam, a former employee of  
4 the Holy Land Foundation and the predecessor company to  
5 InfoCom.

6 Q. All right. That photograph of the man with the beard who  
7 is facing to the right as you look at it, is that a photograph  
8 of Islam Siam?

9 A. Yes, it is.

10 Q. All right. And then the caption where there is not a  
11 picture, who is represented by that entry in the exhibit?

12 A. That is Jamal Issa or Jamal Abu Baker.

13 Q. And he is the brother of the Defendant Shukri Abu Baker?

14 A. That is correct, sir.

15 Q. And I believe you testified he is the Hamas  
16 representative first in the Sudan and later in Yemen?

17 A. Yes, sir.

18 Q. And as far as the line that goes down to the graphic  
19 image there, who is represented where there is not a  
20 photograph but the name?

21 A. There is the brother that they share named Ramzi Abu  
22 Baker.

23 Q. All right. And then the photograph obviously connected  
24 between the lines of that -- Between the line from Jamal Issa  
25 to Shukri Abu Baker, that is a photograph of him. Correct?

1 A. Correct.

2 Q. All right. And then Mousa Abu Marzook is the individual  
3 on the top row to the far right?

4 A. Yes, sir.

5 Q. And that is the same photograph that is used in  
6 Demonstrative No. 17?

7 A. Yes, sir.

8 Q. And the familial relationships to Mousa Abu Marzook and  
9 the Defendants, could you just describe those as shown by this  
10 exhibit?

11 A. Sure. Mousa Abu Marzook, if you follow the line down, it  
12 says "cousins," and that is a picture of the Defendant  
13 Mohammad El-Mezain. And then if you follow the line out to  
14 the side there where it says "married" from Marzook, that is  
15 Nadia Elashi his wife, and she has a line that says "cousins,"  
16 and that is connected to Ghassan Elashi.

17 Q. All right. And that photograph of Nadia Elashi, you have  
18 seen her and you can testify that that is her photograph?

19 A. That is an official photograph from her Immigration  
20 records.

21 Q. All right. The individual that is shown in the center in  
22 the line up from the Defendant Mohammad El-Mezain there is not  
23 a photograph, but the name Ahmad Hamdan, is that the  
24 individual that you testified about yesterday that Mr.  
25 El-Mezain acknowledged was a relative of his and was one of

1 the Hamas deportees in?

2 A. Yes. He acknowledged that to Agent Burns.

3 Q. And I believe you said with regard to Islam Siam, the man  
4 at the bottom in the photograph --

5 A. Right.

6 Q. That he worked for the Holy Land Foundation, but he also  
7 worked for InfoCom for a period of time?

8 A. Right.

9 Q. Okay.

10 A. Or InfoCom's predecessor company.

11 Q. Predecessor?

12 A. Yes, sir.

13 Q. In Richardson?

14 A. It may have been briefly in Richardson. I would have to  
15 look at the records again.

16 Q. All right.

17 MR. JACKS: Thank you, Mr. Lewis. You can take that  
18 down, please.

19 Q. (BY MR. JACKS) did you -- You testified yesterday  
20 regarding the security document that we looked at, and its  
21 guidelines for meetings, and then you pointed to something in  
22 the Philadelphia meeting that seemed to illustrate that policy  
23 or be consistent with that policy. Do you recall that?

24 A. I do.

25 Q. And did you prepare a demonstrative exhibit to try to

1 pull together or to illustrate that circumstance or example  
2 that you were testifying about?

3 A. Yes, sir.

4 Q. Let me show you what has been marked for demonstrative  
5 purposes as Demonstrative No. 3. Is that a poster or  
6 enlargement of the documents that you utilized in your  
7 testimony to give this example of following the directives of  
8 the security manual?

9 A. Yes, sir.

10 MR. JACKS: Your Honor, we would move the admission  
11 of Demonstrative No. 3.

12 MR. CLINE: No objection, other than the ones to the  
13 underlying documents.

14 THE COURT: All right. Demonstrative No. 3 is  
15 admitted.

16 Q. (BY MR. JACKS) Agent Miranda, let me ask you, if you  
17 think it is shown on the screen, but also if you would, just  
18 tell the jury what is represented in Demonstrative No. 3.

19 A. To the left here we have got exhibit InfoCom Search No.  
20 35, which we have been describing as the security document.  
21 This will be the first page of the translation, the first page  
22 of the Arabic. And under it the category of "periodical  
23 meetings" it says point No. 2, "Agreeing on a cover for the  
24 reason of the meaning which is in harmony for the type of  
25 relationship."

1           And then these are two pages from excerpts from the  
2 Philadelphia meeting. The first one is where the speaker  
3 says, "This is a meeting of the Palestine Committee," and the  
4 second one is, I testified yesterday, where the Defendant  
5 Shukri Abu Baker says, "This is a joint workshop between the  
6 Holy Land Foundation and the IAP. This is the official form.  
7 I mean, please, in case some inquire." Which I have lines  
8 coming back to pertinent parts of the security document.

9       Q.    Okay. And you can just stay there. Did you also prepare  
10 a demonstrative exhibit that illustrated the point you were  
11 testifying about today regarding the Holy Land Foundation's  
12 use of a company for technical surveillance or to detect  
13 technical surveillance?

14    A.    Yes, sir, I did.

15    Q.    I am going to show you what has been marked for  
16 identification as Demonstrative No. 5, and is that a poster  
17 that covers that aspect of your testimony and the exhibits  
18 that you were referring to in that regard?

19    A.    Yes, sir.

20    Q.    All right.

21           MR. JACKS: Judge, move the admission of  
22 Demonstrative No. 5.

23           MR. CLINE: No objection as a demonstrative.

24           THE COURT: Admitted.

25    Q.    (BY MR. JACKS) Let me ask you, Agent Miranda, if you

1 could, just describe what Demonstrative No. 5 shows and the  
2 reproductions that you have included on there.

3 A. Yes, sir. Again, this is the security document that we  
4 have been discussing, which is InfoCom Search No. 35. That is  
5 the exhibit number. The page that I believe is pertinent is  
6 here. This is the Arab translation behind it. And it says,  
7 "12. Conducting necessary maintenances measures for the  
8 foundation (individual, location, equipment) and using  
9 advanced equipment for that."

10 And these are the two letters we introduced this morning  
11 from this Executive Protection Group wherein this individual  
12 says that they came in and swept for bugs.

13 Q. Agent Miranda, did you also prepare a demonstrative or  
14 assist in the preparation of a demonstrative exhibit that  
15 would serve to illustrate your testimony regarding the  
16 procedures and guidelines in the security manual regarding  
17 travel and the evidence regarding travel by Shukri Abu Baker  
18 and Akram Mishal on behalf of the Holy Land Foundation?

19 A. Yes, sir.

20 Q. And let me show you what has been marked for  
21 identification purposes as Demonstrative No. 4. And is that a  
22 demonstrative exhibit which contains reproductions of the  
23 exhibits that you were referring to during your testimony  
24 regarding this particular activity?

25 A. Yes, sir.

1           MR. JACKS: Judge, we move the admission of  
2 Demonstrative No. 4.

3           MR. CLINE: Just our objections to the underlying  
4 documents, not the demonstrative.

5           THE COURT: All right. Demonstrative No. 4 is  
6 admitted as a demonstrative.

7 Q. (BY MR. JACKS) Agent Miranda, would you please just  
8 explain what is shown On Demonstrative No. 4, the exhibits  
9 that are reproduced therein and how you have sought to connect  
10 them or show their relationship?

11 A. Yes. Again, this is the security document, InfoCom  
12 Search No. 35, being the exhibit number. This is the page  
13 that I believe is pertinent with the Arab behind it, the  
14 Arabic version. And it says, "Providing a suitable cover for  
15 travel, commerce, tourism, visiting relatives, and supporting  
16 it with documents, commercial samples, catalogs, and tourist  
17 brochures. Also achieving this pretext in the visited country  
18 by taking tourist tours, making commercial meetings, or  
19 reaching bargains."

20           And then I have drawn arrows to the documents we  
21 discussed after that, including the 1996 letter in which a  
22 visa is being requested in the name of Akram Mishal under the  
23 InfoCom Corporation being the business where Akram Mishal is  
24 allegedly the international sales manager, and then the two  
25 visa applications to Saudi Arabia dated on the same date for

1 the two individuals Mishal and the Defendant Baker with the  
2 information related to InfoCom.

3 Q. The two reproductions that you have shown from HLF Search  
4 No. 89, these relate to travel in the year 2001. Correct?

5 A. Yes, sir.

6 Q. And this InfoCom Search No. 36 relates to travel or  
7 expected travel in 1996 by Akram Mishal. Is that correct?

8 A. Correct, sir. And the exhibit numbers are on there.

9 Q. Thank you. You can take the stand.

10 A. Yes, sir.

11 MR. JACKS: May I have just a moment, Your Honor?

12 THE COURT: Yes.

13 MR. JACKS: I pass the witness, Your Honor.

14 THE COURT: Okay. Mr. Cline?

15 MR. CLINE: Your Honor, may we approach for one  
16 moment?

17 THE COURT: Sure. Come on up.

18 (The following was had outside the hearing of the  
19 jury.)

20 MR. CLINE: Now that we have reached the end of  
21 direct examination, we would ask that the Court to give that  
22 404(b) limiting instruction to the jury before the cross  
23 begins.

24 THE COURT: Okay. Any objections on that?

25 MR. JACKS: I haven't seen it in writing yet. I

1 mean, I don't think I do, Your Honor, but --

2 THE COURT: The only question I still had -- That I  
3 had was over what it covers. You raised an issue as to the  
4 pre-designation evidence, the money that came from Marzook to  
5 InfoCom.

6 MR. JACKS: You know, Your Honor, I think I would  
7 just -- I would not object if the Court included that. But I  
8 still have not seen the final wording, and I --

9 THE COURT: It is in their motion.

10 MR. JACKS: I thought they changed it.

11 THE COURT: No. We only added the language that it  
12 didn't apply to any of the other Defendants, but that stayed  
13 in tact as far as the 404(b) limiting instruction language.

14 MR. JACKS: Is there a chance we can look at it?

15 THE COURT: Does anybody have it handy?

16 MS. DUNCAN: I have it on my computer.

17 THE COURT: Congratulations on finishing. I was  
18 beginning to wonder, only because you said 30 to 45 minutes  
19 yesterday. It was a long 30 to 45 minutes.

20 MR. JONAS: And he said one day on direct.

21 THE COURT: We were talking about that very thing.

22 MR. JACKS: I accept all of that.

23 THE COURT: Yes, in good humor. You covered a lot  
24 of ground.

25 MS. SHAPIRO: We are now -- I mentioned to Jennifer,

1 and we agreed with the Defense that because the timing of  
2 getting all our witnesses here is so difficult for all of us,  
3 that we have two very brief witnesses that we would like to  
4 interrupt the cross examination for, and we will provide them  
5 the same courtesy.

6 THE COURT: Sometime today?

7 MS. SHAPIRO: After lunch. Mr. Simon needs to  
8 essentially get on right after lunch, and then Joe Hummel, a  
9 former FBI agent, who will have a very brief testimony.

10 THE COURT: Everybody in agreement with that?

11 MR. CLINE: We have no objection to the timing out  
12 of sequence. The only concern that we have, we made our  
13 objections to Simon's testimony, and I think you have ruled on  
14 those.

15 As to Mr. Hummel, I believe he is going to testify that  
16 he seized Marzook's phonebook from him at JFK Airport. We are  
17 not going to have a problem with that testimony, but then I  
18 think he also wants to say that Marzook initially denied  
19 having the phonebook, and we will be objecting to that  
20 testimony about what Marzook said. So I don't know if you  
21 want to take that up now, but when we get to that moment maybe  
22 right as he takes the stand we would like to be heard on that.

23 THE COURT: Maybe remind me as we break for lunch,  
24 or come back from lunch before we take up his testimony while  
25 the jury is not here.

1 MR. CLINE: Right. We will do that.

2 MR. JACKS: I have no objection to that instruction.

3 THE COURT: Okay. Let me make sure I can find it.

4 I have it here somewhere. That is the one, I think.

5 MR. CLINE: That is the Government's --

6 THE COURT: Here it is.

7 MR. CLINE: This is the instruction as to Mr.  
8 Elashi, and then you will add a sentence about the other  
9 Defendants.

10 THE COURT: I started it there, but you want it at  
11 the end?

12 MS. DUNCAN: It would make more sense at the end.

13 THE COURT: They may not consider this evidence for  
14 any purpose as to any of the other Defendants?

15 MS. DUNCAN: Yes, Your Honor.

16 (The following was had in the presence and hearing  
17 of the jury.)

18 THE COURT: Members of the jury, before we go to  
19 cross examination I am going to give you an instruction.

20 You may recall that last Wednesday October the 8th you  
21 heard some evidence from Agent Miranda about some acts of the  
22 Defendant Ghassan Elashi involving InfoCom, Mousa Abu Marzook,  
23 and Nadia Elashi. That was the money that was being sent from  
24 InfoCom to Ms. Elashi and perhaps her son, and that may be  
25 similar to some of the acts charged in the indictment. Those

1 acts, though were committed on other occasions.

2 The limiting instruction is you may not consider any of  
3 this evidence in deciding if Mr. Elashi committed the acts  
4 charged in the indictment. However, you may consider that  
5 evidence, that particular evidence as to Mr. Elashi only for  
6 other very limited purposes. If you find beyond a reasonable  
7 doubt from other evidence in this case that the Defendant Mr.  
8 Elashi did commit the acts charged in the indictment against  
9 him, then you may consider this evidence of this money  
10 exchange allegedly committed on other occasions to determine  
11 whether Mr. Elashi had the state of mind or intent necessary  
12 to commit the crimes charged in the indictment. This is a  
13 limited purpose for which any of that evidence can be  
14 considered against Mr. Elashi.

15 Also in that regard, you may not consider that evidence,  
16 that money going to Ms. Elashi, you may not consider that as  
17 to any of the other Defendants for any purpose. So that is a  
18 limited purpose evidence that was admitted. And I will give  
19 this to you again in the written charge at the end so you  
20 don't have to memorize it, but have in mind that that is  
21 admitted for a limited purpose to help you, if it does, to  
22 help determine the intended state of mind of Mr. Elashi.

23 Mr. Cline?

24 MR. CLINE: Thank you, Your Honor.

25 CROSS EXAMINATION

1     By Mr. Cline:

2     Q.    Good morning, Agent Miranda.

3     A.    Good morning, sir.

4     Q.    I want to start by asking you some questions about  
5    InfoCom Search No. 35, the security document.

6     A.    Yes, sir.

7     Q.    You are familiar with the document I am talking about?

8     A.    Yes, sir.

9     Q.    That document was found in a box at InfoCom.  Correct?

10    A.    Yes, sir.

11    Q.    The HLF documents at InfoCom were generally older  
12   documents.  Correct?

13    A.    Yes, sir.

14    Q.    No copy of the security document was found at HLF  
15   headquarters in Richardson.  Correct?

16    A.    Right.

17    Q.    And no copy of the security document was found at HLF  
18   offices in New Jersey or Chicago or San Diego.  Correct?

19    A.    Correct.

20    Q.    You tried to get fingerprints from the security document.  
21   Correct?

22    A.    Correct.

23    Q.    And you were unable to get any fingerprints that you  
24   could identify.  Correct?

25    A.    Right.

1 Q. Now, InfoCom Search No. 35, which is the security  
2 document, refers to certain committees. Correct?

3 A. Yes, sir.

4 Q. It refers, for example, to a maintenance committee in  
5 several places. Right?

6 A. Yes, sir.

7 Q. And I take it that you have not seen any internal HLF  
8 documents that refer to an HLF maintenance committee. Is that  
9 correct?

10 A. Correct.

11 Q. The security document refers to a sorting committee.  
12 Correct?

13 A. Correct.

14 Q. And I take it that you have not seen any internal HLF  
15 documents that refer to an HLF sorting committee. Correct?

16 A. Right.

17 Q. The security document refers to work committees and field  
18 committees. Correct?

19 A. Correct.

20 Q. Now, HLF had people out working in the field. Correct?

21 A. Correct.

22 Q. But in this context, you have not seen any internal HLF  
23 documents that refer to HLF work committees or field  
24 committees. Correct?

25 A. Correct.

1 Q. Now, you testified I believe about a document  
2 classification appendix that is part of the security document.  
3 Right?

4 A. Yes.

5 Q. And the appendix establishes a scale that ranges from  
6 general to very private. Right?

7 A. Yes.

8 Q. And general requires the least protection and very  
9 private requires the most. Right?

10 A. Yes.

11 Q. Now, according to that appendix, a limited document is  
12 designated by the No. 1. Right?

13 A. I would have to see the appendix again, sir, just to make  
14 sure.

15 Q. I am going to put the appendix up on the elmo and ask you  
16 to take a look at it. Okay?

17 A. Yes, sir. Yes, sir, I see it.

18 Q. Do you see it down there at the bottom?

19 A. Yes, sir.

20 Q. And you see that the symbol No. 1 is to be used for  
21 limited classification?

22 A. Yes, sir.

23 Q. The symbol No. 2 is to be used for the private  
24 classification. Right?

25 A. Yes, sir.

1 Q. And the symbol No. 3 is to be used for very private  
2 classification. Correct?

3 A. Yes, sir.

4 Q. And documents that don't have any number at all are in  
5 the general category. Right?

6 A. Possibly, sir.

7 Q. Now, the Government and the Defense have introduced into  
8 evidence in this case quite a number of documents that were  
9 seized in the InfoCom search. Correct?

10 A. Yes, sir.

11 Q. And this document here, InfoCom Search No. 35, the  
12 security document, is one of those. Right?

13 A. Yes, sir.

14 Q. Now, InfoCom Search No. 35 has a 2 on it. Right?

15 A. Yes, sir.

16 Q. Which would suggest that it is the private  
17 classification. Right?

18 A. Yes, sir.

19 Q. Are there any other InfoCom search documents in evidence  
20 that have one of these classification numbers on it?

21 A. No, sir.

22 Q. Now, we have also introduced into evidence a number of  
23 documents that were seized in the search of HLF. Correct?

24 A. Yes, sir.

25 Q. Are there any HLF search documents in evidence that have

1 one of these classification numbers on it?

2 A. No, sir.

3 Q. We have introduced into evidence, or the Government has,  
4 a number of documents that were seized in the search of Mr.  
5 Elbarasse's home. Correct?

6 A. Yes, sir.

7 Q. Are there any Elbarasse documents in evidence that have  
8 one of these classification numbers?

9 A. I thought there was one. I am not certain of that, sir.

10 Q. All right. So perhaps there is one, but there would only  
11 be one. Right?

12 A. Perhaps, sir, yes.

13 Q. And even the one you are not sure of. Right?

14 A. Correct.

15 Q. We may get a break here for lunch at some point. We  
16 probably are all hoping. Would you mind checking on that over  
17 lunch to --

18 A. Sure, I can do that.

19 Q. Very good. Thank you.

20 I want to go through a couple of the items in the  
21 security document, and if you don't remember these off the top  
22 of your head let me know and I will be happy to put it up on  
23 the elmo for you. Okay?

24 A. Yes, sir.

25 Q. On page 2 of the English version, item No. 20, this is

1 talking about meetings. Okay?

2 A. Yes, sir.

3 Q. Page 2 item No. 20 says, "Avoiding talking about meetings  
4 and their times on the phone and fax." Do you recall that?

5 A. I do.

6 Q. You do?

7 A. Yes, sir.

8 Q. Okay. Now, you were here for Agent Burns' testimony.  
9 Right?

10 A. Portions of it, yes.

11 Q. And do you recall that she played some intercepted  
12 conversations in which Mr. Abu Baker and others talked on the  
13 phone about arranging the Philadelphia meeting?

14 A. Yes.

15 Q. On page 3 item No. 9, we are talking now about document  
16 safety. That is the heading in the security document. Okay?  
17 Page 3 item No. 9 says, "Using the computer to send faxes  
18 between exposed offices, keeping in mind to encrypt the files  
19 before they are sent." Do you remember that?

20 A. Yes, sir.

21 Q. We have seen a number of faxes that have been introduced  
22 into evidence in this case. Correct?

23 A. Yes, sir.

24 Q. Were any of the faxes in evidence in this case encrypted?

25 A. No.

1 Q. On 8 of the English version of the search of the security  
2 document, there is an entry for travel and transportation  
3 safety. Do you recall that?

4 A. Yes, sir.

5 Q. And item No. 6 says, "A traveler is to empty his  
6 residence totally of any documents or items relating to the  
7 work, i.e., the Movement, when traveling." Do you recall  
8 that?

9 A. Yes, sir.

10 Q. Now, Mr. Ashqar's home was searched on December the 26th  
11 of '93. Correct?

12 A. Yes.

13 Q. And he was away, I take it, when that happened?

14 A. I don't know.

15 Q. Well, his home was searched. FBI agents came in and they  
16 took photos of a number of documents that they found.

17 A. I don't know if he was traveling or just out of the  
18 house. I thought that was The implication of your question.

19 Q. I see. You don't know whether he was traveling or not.

20 A. I don't know if he was traveling or just out of the house  
21 for a couple of hours.

22 Q. I follow you. Okay. In any event, there were a number  
23 of documents found in Mr. Ashqar's home. Correct?

24 A. Yes, sir.

25 Q. Simply Mr. Elbarasse's home. Correct?

1 A. Yes, sir.

2 Q. Page 11 of the security document, this is now talking  
3 about the safety of personal residences, work apartments,  
4 cars, and possessions. Item No. 4, "Assigning individuals to  
5 live in offices after formal work hours." Do you recall that?

6 A. I have read that, yes, sir.

7 Q. Did you come across anybody that was assigned to live in  
8 the HLF office after formal work hours?

9 A. No.

10 Q. Anybody who was assigned to live in the InfoCom offices  
11 after formal work hours?

12 A. No.

13 Q. Page 12 item No. 5, this has to do with hotel safety.  
14 Okay?

15 A. Yes, sir.

16 Q. Do you remember that? Item No. 5, "In general, hotel  
17 rooms are not a safe place for conducting meetings." Do you  
18 recall that?

19 A. Yes, sir.

20 Q. And do you recall that the Philadelphia meeting was  
21 conducted at a Marriott Courtyard hotel?

22 A. Yes, sir.

23 Q. Now, I want to turn to the speakers list for a moment.

24 MR. CLINE: May I approach for a second, Your Honor?

25 THE COURT: Yes.

1 Q. (BY MR. CLINE) Agent Miranda, I don't know if you can  
2 see that. You probably can't.

3 A. Just a little bit of it.

4 Q. Do you recognize that as a big version of the overseas  
5 speakers list?

6 A. Yes, sir.

7 Q. And you testified about this list on direct. Correct?

8 A. Yes, sir.

9 Q. And you went through the speakers list with Mr. Jacks,  
10 and you highlighted names that fell in certain categories.  
11 Right?

12 A. Yes, sir.

13 Q. For example, you highlighted names of people who appeared  
14 in Mr. Marzook's phonebook. Right?

15 A. Yes, sir.

16 Q. You highlighted names of people who appeared in Ashqar  
17 phone list. Correct?

18 A. Yes, sir.

19 Q. I think I remember you doing that. I can't tell you that  
20 for certain.

21 A. I think there is some crossover there, so I will answer  
22 yes.

23 Q. All right. You identified some of the people on this  
24 list as Hamas leaders, and you highlighted those names.  
25 Correct?

1 A. Yes, sir.

2 Q. All right. What I would like to do is to talk about a  
3 different list and see how this overseas speakers list matches  
4 up there. On your direct testimony you talked about specially  
5 designated terrorists. Correct?

6 A. Yes, sir.

7 Q. And just to remind the jury, specially designated  
8 terrorists are people who have been designated under that  
9 Executive Order No. 12947. Correct?

10 A. Yes, sir.

11 Q. And there is a process there, and we will go through that  
12 in a few minutes, but the -- at the end point of that process  
13 is that a person or an organization is designated by the  
14 Secretary of State or the Secretary of Treasury, or a  
15 combination, as a specially designated terrorist. Correct?

16 A. Yes, sir.

17 Q. Sometimes we call that an SDT. Right?

18 A. Yes, sir.

19 Q. And once someone or an organization is designated as a  
20 specially designated terrorist, they go on a list that the  
21 Treasury Department maintains. Correct?

22 A. Yes, sir.

23 Q. And that is known as the specially designated nationals  
24 and blocked persons list. Right?

25 A. Yes, sir.

1 Q. And that is maintained on the Treasury Department  
2 website. You can find it there today. Right?

3 A. Yes, sir.

4 Q. And I don't know if you were here for this, but the  
5 version of the list that was in effect on June 29th, 2001 was  
6 placed in evidence as Defense Exhibit No. 963. Do you recall  
7 that?

8 A. Yes, sir.

9 Q. And I don't know if you remember the explanation, but we  
10 picked that date because it is a few days after the last  
11 transaction identified in the indictment. Are you with me?

12 A. Yes, sir.

13 Q. Okay. Now, calling your attention back to this overseas  
14 speakers list, I would like to go through it from top to  
15 bottom and have you tell me each name on that list that shows  
16 up on the Treasury Department specially designated nationals  
17 and blocked persons list as of June 29th, 2001. And I have  
18 got the list here if you want to check it.

19 A. Right.

20 Q. Could you tell us, please?

21 A. There is not anybody on it.

22 Q. No one, not a single person on this list is on that  
23 Treasury Department list. Is that right?

24 A. Correct.

25 Q. And in fact, if one were to look at that list today on

1 the Treasury Department website, not a single one of these  
2 names would be on it. Correct?

3 A. That is correct.

4 Q. You talked a little bit about Jamal Baker or Jamal Issa,  
5 I think you called his Hamas name. Do you recall that?

6 A. Yes, I do.

7 Q. Mr. Jamal Baker isn't on the June 29th, 2001 version of  
8 that Treasury Department list, either in his Baker name or his  
9 Issa name. Correct?

10 A. Correct.

11 Q. And if you looked at the Treasury Department list today  
12 and pulled it off the website, you wouldn't find Mr. Baker  
13 there under either of his names, would you? Right?

14 A. Correct.

15 Q. Just this morning you were talking about a document, I  
16 believe it was Elbarasse Search No. 35, although I confess I  
17 might have the number wrong, but it was the document about the  
18 trust. Do you remember that?

19 A. Yes.

20 Q. And in that document, it referred to a series of  
21 organizations, the PTLP -- It was like an alphabet soup but  
22 you remember what I am talking about. Right?

23 A. Yes.

24 Q. And I think Mr. Jacks asked you whether those were  
25 designated terrorist organizations. Do you remember that?

1 A. Yes.

2 Q. And in fact today they are. Right?

3 A. Yes.

4 Q. That document was dated 1992. Right?

5 A. Yes.

6 Q. In 1992 none of those organizations had been designated  
7 as a terrorist organization. Right?

8 A. Correct.

9 Q. In fact, designations started to occur no earlier than  
10 January 23rd, 1995. Right?

11 A. Correct.

12 Q. Now, I want to take you back for a minute to March of  
13 2002. All right? Now, just to orient you and the jury in  
14 time, we are talking about four months after Holy Land closed.  
15 Okay? Are you with me?

16 A. Yes, sir.

17 Q. All right. Now, on March 26th, 2002, you recommended to  
18 an FBI supervisory special agent named Mike Reznik that  
19 several people be designated as terrorists. Correct?

20 A. Correct.

21 Q. Now, Agent Reznik was an agent up at FBI headquarters in  
22 Washington, D.C. Right?

23 A. Yes.

24 Q. And you told Agent Reznik, "Dallas" -- And by that you  
25 meant the Dallas FBI office. Right?

1 A. Yes.

2 Q. "Dallas believes the designation process will ultimately  
3 benefit the captioned investigations, one being InfoCom; the  
4 other being Holy Land." Right?

5 A. Yes.

6 Q. "As well as future FBI criminal and intelligence  
7 investigations." Right?

8 A. Right.

9 Q. And you told Agent Reznik that you had selected the  
10 people that you wanted designated based on their potential  
11 impact on the captioned cases, their non-U.S. status and  
12 unlikely return to the United States. Correct?

13 A. Correct.

14 Q. And again, the captioned cases you were referring to  
15 there were the Holy Land case and the InfoCom case. Correct?

16 A. Correct.

17 Q. Now, one of the people that you told Agent Reznik you  
18 wanted designated was Khalid Mishal. Right?

19 A. Right.

20 Q. And in fact, on August 21st, 2003, Khalid Mishal was  
21 designated a specially designated global terrorist. Right?

22 A. I am not sure of the date, but yes, I understand him to  
23 be an SDT.

24 Q. Let me see if I can refresh your recollection on the  
25 date. I am going to show you, Agent Miranda, on the elmo here

1 Government's Exhibit Designation No. 1, which I believe is in  
2 evidence.

3 A. Right.

4 Q. I am going to start by showing you the front page of it.  
5 Do you recognize it?

6 A. Yes, sir.

7 Q. All right. And I am going to turn to the fourth page and  
8 have you look at the top. You see Khalid Mishal?

9 A. I do, sir.

10 Q. And this is the document designating him as a specially  
11 designated global terrorist. Right?

12 A. Yes, sir.

13 Q. And then I am going to turn to the last page so you can  
14 see the date. Do you see that--8/21/03?

15 A. Yes, sir.

16 Q. Does that refresh your recollection that in fact Khalid  
17 Mishal was designated as a specially designated global  
18 terrorist in August 2003?

19 A. Yes, sir.

20 Q. When Mr. Jacks was asking you questions, you mentioned a  
21 couple of times that Mr. Mishal has been designated as a  
22 terrorist. Right?

23 A. Yes, I was aware of it.

24 Q. It is also in the indictment. It alleges that he was  
25 designated as a specially designated global terrorist in

1 August 2003. Correct?

2 A. Yes, sir.

3 Q. Now, you also recommended to Agent Reznik back in March  
4 of 2002 that Jamil Hamami be designated as a terrorist.  
5 Right?

6 A. That is right.

7 Q. And you made that recommendation again on March 26th of  
8 2002. Right?

9 A. Yes, sir.

10 Q. And that is the same Jamil Hamami we have been hearing  
11 about in this case, who the United States Information Service  
12 had invited to visit the United States in '98 and '99.  
13 Correct?

14 A. Yes, sir.

15 Q. And it is the same Jamil Hamami whom Agent Burns  
16 testified had been excommunicated by Hamas. Right? Were you  
17 here for that testimony?

18 A. Yeah, I was. I was going to -- The answer is yes.

19 Q. In March of 2002 was Mr. Hamami engaging in terrorist  
20 activity?

21 A. No, not according to what he said later in 2004.

22 Q. And as it turned out, Mr. Hamami was not designated.  
23 Correct?

24 A. Correct.

25 Q. I want to talk with you a little bit about the

1 designation process. We have kind of touched on it here, but  
2 I want to talk about it in a little bit more detail. Okay?

3 This list, this Treasury Department list, the specially  
4 designated nationals list, that began with an executive order  
5 that President Clinton issued on January 23rd, 1995. Correct?

6 A. Yes, sir.

7 Q. That is Executive Order No. 12947?

8 A. Yes, sir.

9 Q. And I think on your direct you pointed out that a copy of  
10 that executive order was found in Mr. Elashi's office at  
11 InfoCom. Right?

12 A. Yes, sir.

13 Q. I believe it is InfoCom Search No. 37.

14 A. I don't recall the exhibit number, sir.

15 Q. All right. I am just going to stick it up here on the  
16 elmo to make sure we are on the same page. Can you read down  
17 there?

18 A. Yes, I can. It reads InfoCom Search No. 37.

19 Q. All right. We will talk about this document more here in  
20 just a second.

21 And again, people designated under that executive order  
22 are specially designated terrorists. Correct?

23 A. Yes, sir.

24 Q. And they go on that Treasury Department list that we have  
25 talked about before. Correct?

1 A. Yes, sir.

2 Q. Now, I want to talk to you about how a person or an  
3 organization comes to be designated as a specially designated  
4 terrorist, and I am going to refer you to the second page of  
5 InfoCom Search No. 37, which is the copy of the executive  
6 order that was found in Mr. Elashi's office. Okay?

7 A. Yes, sir.

8 Q. And I want to focus you in on the portion of the order  
9 that is at the center of the screen right now, at least the  
10 center of my screen, under Section 1. Do you see that?

11 A. Yes, sir.

12 Q. And are you able to read it there on the screen?

13 A. Yes, sir.

14 Q. Okay. Now, a person can become a specially designated  
15 terrorist in several different ways, and I want to go through  
16 them with you. The first way is that you could be included in  
17 the annex to the executive order itself. Correct? Do you see  
18 that?

19 A. Yes, sir.

20 Q. A person is listed in the annex to this order?

21 A. Yes, sir.

22 Q. And in fact, there were some people and some entities  
23 that were listed in the annex to Executive Order No. 12947.  
24 Correct?

25 A. I thought it was just organizations.

1 Q. Well, there was Hamas, of course. Right?

2 A. Yes, sir.

3 Q. But Sheikh Yassin was also included in that list.

4 Correct? The individual?

5 A. On this one, sir? I would have to look at it. I didn't  
6 think he was.

7 MR. CLINE: Your Honor, is Designation No. 5 in  
8 evidence? I believe it is.

9 THE COURT: I believe it is as well. Let me check.  
10 Yes, it is in.

11 Q. (BY MR. CLINE) All right. Agent Miranda, let me show  
12 you on the screen Government Designation No. 5. Do you see  
13 the exhibit sticker down there in the bottom?

14 A. I do, sir.

15 Q. Let's go to the first page. It is a special designation  
16 and blocking memorandum. Do you see that?

17 A. Yes, sir. I understand what you are saying, but I don't  
18 think -- I didn't think that was your question. On the  
19 previous exhibit I thought you were asking about the annex to  
20 that exhibit, and I said I didn't think there was any  
21 individuals on it. If you turn to the last page of that  
22 annex.

23 Q. All right.

24 A. Maybe I misunderstood your question.

25 Q. Well, let's do it this way.

1 A. Sure.

2 Q. When that executive order came into effect on January  
3 23rd, 1995, certain individuals and organizations were  
4 designated as of that date. Correct?

5 A. No, I think that is my point. I thought it was only  
6 organizations as of the date that you are referring to.

7 Q. All right. And we are getting confused on something that  
8 doesn't really matter here, but just let me clarify it for  
9 you. Okay?

10 A. Sure.

11 Q. Taking Designation No. 5, let me put up the second page,  
12 and this page shows Hamas as having been designated. Correct?

13 A. Yes, sir.

14 Q. All right. Then let me go to page 3, and that begins a  
15 list of individuals. Correct?

16 A. Correct.

17 Q. And then let me go to the last page, and you see there  
18 Sheikh Yassin. Correct?

19 A. That is correct.

20 Q. And then you look at the date and it is January 23rd,  
21 1995. Correct?

22 A. Correct.

23 Q. So putting aside the question of whether these people  
24 were included in the annex to the order, all of them as of  
25 January 23th, 1995, the date of the executive order, were

1 designated as specially designated terrorists. Correct?

2 A. That is correct.

3 Q. Including Sheikh Yassin?

4 A. Correct.

5 Q. Okay. Now, let's go back to the executive order. And  
6 again, I want to go through the different ways that people can  
7 be designated as terrorists. Okay?

8 A. Yes, sir.

9 Q. So the first way is the persons can be listed in the  
10 annex to this order. Correct?

11 A. Yes, sir.

12 Q. And we can certainly agree, whatever Sheikh Yassin's  
13 situation is, that Hamas was designated in the annex to the  
14 order. Right?

15 A. Yes, sir.

16 Q. All right. Then the second way that people can be  
17 designated as specially designated terrorists is in the next  
18 paragraph down, and it says, "Foreign persons designated by  
19 the Secretary of State, in coordination with the Secretary of  
20 the Treasury and the Attorney General, because they are  
21 found:" and then it gives a couple of different possibilities  
22 there. Right?

23 A. Yes, sir.

24 Q. The first one is if they are found "to have committed, or  
25 to pose a significant risk to committing, acts of violence

1     that have the purpose or effect of disrupting the Middle East  
2     peace process."   Right?

3     A.    Yes, sir.   That is what it says.

4     Q.    And the second possibility is, "To assist in sponsor, or  
5     provide financial material or technological support for or  
6     services in support of such acts of violence."   Right?

7     A.    Yes, sir.

8     Q.    So those are -- If people or entities are found to have  
9     done those things by the Secretary of State, in coordination  
10    with other officials, they can be designated as specially  
11    designated terrorists.   Right?

12    A.    Yes, sir.

13    Q.    And then the third possibility in Section 1 is, "Persons  
14    determined by the Secretary of the Treasury, in coordination  
15    with the Secretary of State and the Attorney General, to be  
16    owned or controlled by, or to act for or on behalf of, any of  
17    the foregoing persons that are in the United States that  
18    hereafter come within the United States, or that hereafter  
19    come within the possession or control of United States  
20    persons."   Do you see that?

21    A.    Yes, sir.

22    Q.    That last part really refers to the property, but the  
23    people who are going to be designated are people who are  
24    determined to be owned or controlled by or to act for or on  
25    behalf of any of the foregoing persons.   Right?

1 A. Yes, sir.

2 Q. All right. And anyone who is designated under any of  
3 these three possible ways ends up on that Treasury Department  
4 specially designated nationals list. Right?

5 A. Yes, sir.

6 Q. And looking at this third possibility, "People who are  
7 owned or controlled by, or act for or on behalf of, any of the  
8 foregoing persons," Mr. Marzook was designated in August of  
9 '95 under that provision. Correct?

10 A. Yes, sir.

11 Q. And he then went on the specially designated nationals  
12 list. Right?

13 A. Yes, sir.

14 Q. Where he remains to this day. Right?

15 A. Yes, sir.

16 Q. And the terrorist organization that Mr. Marzook was found  
17 to have acted directly or indirectly on behalf of, of course,  
18 was Hamas. Right?

19 A. Yes.

20 Q. A quick aside here. Nadia Elashi you testified about  
21 somewhat on direct. Correct?

22 A. Yes, sir.

23 Q. She is Mr. Marzook's wife. Right?

24 A. Yes, sir.

25 Q. And Mr. Elashi's cousin, you testified?

1 A. Yes, sir.

2 Q. When Mr. Marzook was arrested at JFK Airport in July  
3 1995, Nadia Elashi was with him. Correct?

4 A. That is correct.

5 Q. And the Government knew at that point at least that she  
6 was his wife. Correct?

7 A. Correct.

8 Q. Nadia Elashi has never been designated as a terrorist.  
9 Correct?

10 A. No.

11 Q. Her name is not on that Treasury Department list that we  
12 have been talking about. Correct?

13 A. Correct.

14 Q. Now, the version of the list in effect in June 2001 is in  
15 evidence as Defendants' Exhibit No. 963. Correct?

16 A. Yes, sir.

17 Q. And that list does not include the names of any of these  
18 zakat committees or societies mentioned in the indictment.  
19 Correct?

20 A. Correct.

21 Q. And even today the names of those zakat committees and  
22 societies are not on that list. Correct?

23 A. Correct.

24 MR. CLINE: Your Honor, those are all my questions  
25 for now.

5 MR. CLINE: If I may reserve that one question for  
6 after lunch?

9 THE COURT: Who is next? Ms. Hollander?

13 THE COURT: All right. We will work until about  
14 12:30.

16 | By Ms. Hollander:

19 Q. I think we are into afternoon.

25 Q. And I will show this to you, but you testified that you

1     used this demonstrative when you talked about the stated  
2     purpose of the Philadelphia conference. Do you recall that?

3     A.    The cover?

4     Q.    What you wrote here "stated purpose"?

5     A.    Yes, right.

6     Q.    And I believe you testified, unless I misunderstood you,  
7     that the meeting was a meeting of the Palestine Committee.  
8     Correct?

9     A.    Yes, ma'am.

10    Q.    Okay. I would like you to just, and I will bring this up  
11    to you, what it says here on Philly Meeting No. 1 page 10 that  
12    you put into your demonstrative.

13                 MS. HOLLANDER: May I approach?

14                 THE COURT: Yes.

15    Q.    (BY MS. HOLLANDER) If you could just read this sentence  
16    here.

17    A.    "This meeting was called for by the Palestine Committee  
18    in order to have a seminar or a meeting to the brothers  
19    present here today in order to study the situation in light of  
20    the latest developments on the Palestinian arena, its effects,  
21    and impact on our work here in America."

22    Q.    Thank you?

23    A.    You are welcome, ma'am.

24    Q.    So what the underlying document actually said was this  
25    was a meeting called for by the Palestine Committee. Correct?

1 A. Right.

2 Q. Now, you have testified a bit about the calls between  
3 Shukri Abu Baker and his brother Jamal Abu Baker. Correct?

4 A. Yes, ma'am.

5 Q. And I want to ask you a few questions about those calls.  
6 Okay?

7 A. Yes, ma'am.

8 Q. The first one I want to ask you about is the one that the  
9 Government refers to as Baker Wiretap No. 26. Now, these  
10 calls -- I believe -- Well, let me ask you a preliminary  
11 question, because I think there is something we need to  
12 correct. When it says Baker Wiretap, that means that Shukri  
13 was the target of that FISA. Correct?

14 A. Yes, ma'am.

15 Q. Okay. And some of those calls were made. In other  
16 words, his home phone was wiretapped under the FISA. Correct?

17 A. I think that is correct.

18 Q. And the Holy Land office phones.

19 A. Yes, ma'am. That is correct.

20 Q. So even though it says Baker Wiretap, we have calls that  
21 he wasn't actually making or receiving from Holy Land.  
22 Correct?

23 A. That is going to be the case in some instances, yes,  
24 ma'am.

25 Q. And then later there was actually another FISA for which

1 the Holy Land Foundation was the actual target. Correct?

2 A. That is correct, ma'am.

3 Q. And so those, in the documents we have here, are  
4 identified as HLF wiretaps.

5 A. Yes, ma'am.

6 Q. Okay. Now, the calls between Shukri and his brother were  
7 from his home phone, weren't they?

8 A. I believe that is correct, ma'am.

9 Q. And I want to ask you first about a few of the  
10 participants on that call, Baker Wiretap No. 26. Can you see  
11 that?

12 A. Yes, ma'am, I can.

13 Q. I think it is clearer on yours than mine, so I assume you  
14 can see it.

15 You have talked just about Shukri and Jamal when you  
16 played this call, but there were actually a number of people  
17 on that call. Correct?

18 A. Yes, ma'am.

19 Q. And they are family members, are they not?

20 A. Yes, ma'am.

21 Q. And the one who is described as SM right here, do you see  
22 that one?

23 A. Yes, ma'am.

24 Q. That is Shukri's mother. Correct?

25 A. Yes, ma'am.

1 Q. And you know her name to be Zuhaira Gerizoni Baker.

2 Correct?

3 A. That is correct.

4 Q. And the Gerizoni is because she is Brazilian. Correct?

5 A. Right.

6 Q. And there is another one. Wijdan Abu Baker is Shukri's  
7 wife. Correct?

8 A. I don't recall if it is his wife or daughter.

9 Q. You just don't remember. If I tell you it is his wife,  
10 will you accept that?

11 A. I will accept that.

12 Q. Thank you. Okay. And Nida is one of his daughters.  
13 Correct?

14 A. Again, I don't recall all the children's names.

15 Q. But there are a number of children on this call.

16 A. Right.

17 Q. And nieces and nephews who were his brother's children.  
18 Correct?

19 A. Yes.

20 Q. Okay. Now, I recall you talking about a part of that  
21 call where his brother actually gave him his post office box  
22 address, didn't he?

23 A. Yes.

24 Q. You recall that?

25 A. Yes, I do recall something about a post office box.

1 Q. You didn't play the whole call. Correct? You just  
2 played parts of it.

3 A. That is correct.

4 Q. Do you see where he says here, Shukri asks him to give  
5 him his post office box number and he does?

6 A. Right.

7 Q. Now, I also want to refer you to the InfoCom Search  
8 No. 35 document. That is the one that we have been referring  
9 to as the security document. Correct?

10 A. Correct.

11 Q. And I would like to turn to page 16 of that document,  
12 which I will put on the elmo here. Can you read the part I  
13 have highlighted? Do you see where it says "telephonic  
14 communication"?

15 A. Yes, ma'am.

16 Q. Would you read the first one there, No. 1?

17 A. Sure. No. 1 reads, "Exposed individuals are not to  
18 contact unexposed individuals or vice versa from home phones,  
19 but from public phones." No. 5, "Avoiding calls during  
20 unusual times" --

21 Q. No, I am sorry. Just that one. I just wanted you to  
22 read No. 1 for now.

23 A. Sure.

24 Q. Thank you. But Shukri was calling from his home phone to  
25 his brother. Correct?

1 A. Or vice versa.

2 Q. Or vice versa. Right. But the calls were made to home  
3 phones?

4 A. Yes.

5 Q. And the time of that call, what was the time of that  
6 call?

7 A. It reads 12:17 and 27 seconds.

8 Q. And what would that be? Would that be noon or midnight?

9 A. I don't know if they are using a 24-hour military time on  
10 this or not. It could be either or.

11 Q. It could be either or?

12 A. Sure.

13 Q. Now, I also would like to point your attention to the  
14 security document on page 15 where it says "mail  
15 correspondence." And can you read the last line there, and  
16 then it goes on to the next page?

17 A. Yes, ma'am. No. 2, "Avoiding mail correspondence, unless  
18 other means of communication are not available."

19 Q. Thank you.

20 A. Yes, ma'am.

21 Q. And just so we are clear, this is the document that was  
22 found at InfoCom that you referred to as a security document  
23 that I just read from. Correct?

24 A. Yes, ma'am.

25 Q. And yet he gave him a post office box. That is where one

1 gets mail. Is that right? At a post office box?

2 A. Yes, ma'am.

3 Q. Now, I would like to go to -- I am sorry. There is a lot  
4 of paper here and I don't want to get lost. I want to ask you  
5 about another call, and that was Baker Wiretap No. 25. That  
6 was one of the other calls. Okay?

7 A. Yes, ma'am.

8 Q. I will show you the first page just so you know which one  
9 I am talking about. This one is at 11:02. Right?

10 A. Yes, ma'am.

11 Q. And I think you have actually previously testified that  
12 that call was made in the middle of the night. Could that be  
13 possible?

14 A. That is possible, yes.

15 Q. And this one, too, there are a number of family members.  
16 Correct?

17 A. Yes, ma'am.

18 Q. And this one also you only read parts of it on direct,  
19 but I think it scrolled. You actually didn't read it. It  
20 scrolled?

21 A. That is correct.

22 Q. It scrolled. That is what I mean. But in fact this was  
23 a long call, wasn't it? Do you recall?

24 A. I don't recall if that one was, but I know there are long  
25 calls.

1 Q. Well, this one, the transcript of Government's Exhibit  
2 Baker Wiretap No. 25 is actually 27 pages.

3 MR. JACKS: Your Honor -- Never mind.

4 Q. (BY MS. HOLLANDER) And again, now, all these people have  
5 the last name Abu Baker. Correct?

6 A. Yes, ma'am.

7 Q. Okay. And you said that Jamal, I think he said in one of  
8 these calls he goes by Baker and then you said he goes by  
9 Issa. Correct?

10 A. I think I said his Hamas name is Issa.

11 Q. But we have seen Abu, the word Abu, A-B-U, used two  
12 different ways here, and in this case it is part of the last  
13 name, isn't it?

14 A. Yes, ma'am.

15 Q. And then sometimes it means father of. Correct?

16 A. Yes, ma'am.

17 Q. So you kind of have to know which way it is being used to  
18 understand whether somebody is being referred to as a familiar  
19 name or a last name. Correct?

20 A. Or maybe from the context.

21 Q. From the context. Right?

22 A. Or maybe. I wasn't disputing what you were saying. I  
23 was saying or maybe, in addition you can determine from the  
24 context.

25 Q. But Abu Baker isn't the only name you have seen that uses

1 the Abu as part of the last name. Correct?

2 A. Correct.

3 Q. Now, on this call, Baker Wiretap No. 25, the grandparents  
4 actually talk to their grandchildren, don't they?

5 A. I don't recall if that is on that call, but I don't  
6 dispute that.

7 Q. Okay. I would like you to read a little bit of this  
8 call. I am not going to ask you to read 27 pages, but I would  
9 like you to read a few of the beginning pages, and identify  
10 who the people are, and if you -- I think what might make it  
11 easier for you actually is if I bring you the first page so  
12 you can identify them, and then I will put this on the elmo.  
13 Okay?

14 A. Yes, ma'am.

15 MR. JACKS: Your Honor, I am going to object to  
16 this. I think Ms. Hollander is mistaken. The entire call is  
17 not in evidence. We admitted excerpts from the call and audio  
18 file of the excerpts.

19 MS. HOLLANDER: Can I have a second, Your Honor?

20 THE COURT: Sure.

21 MS. HOLLANDER: Can we approach?

22 THE COURT: Let's take the lunch break. Be back at  
23 1:45.

24 (Whereupon, the jury left the courtroom.)

25 THE COURT: Be seated.

1 Ms. Hollander?

2 MS. HOLLANDER: Your Honor, I have HLF trial  
3 exhibits 10/8/08 delivered to me from the Government. I  
4 checked again last night because I asked yesterday if this  
5 entire thing was admitted, and I checked last night and that  
6 is what is on here. The entire exhibit is on here.

7 I also, as you recall yesterday, raised an issue about  
8 another one that they played that they played part that I  
9 didn't have and that part isn't on here. I mean, I have to go  
10 by what the Government says. Last week after what happened we  
11 keep getting new exhibits from the Government, and then we  
12 have some issues where they were changed later. So we asked  
13 the Government to provide us a disk of all of their exhibits  
14 correctly, and what we got was this disk. And we also  
15 received -- I am not sure I have it. We also received just a  
16 list of all the exhibits.

17 And then after -- At one point I think Mr. Dratel wrote  
18 to the Government and asked them to tell us which ones had  
19 changed because we had an issue, and we received -- After we  
20 got this document, after we got the disk, we received a very  
21 long list from the Government which has new version, new  
22 version, new version, new version, new exhibit, so they keep  
23 internally changing their exhibits. And this is a real  
24 problem, frankly, because there is no way that we can go back.  
25 But this is what I have.

1           THE COURT: That is really -- What I want to know is  
2 what was admitted. I don't know that you need to get into all  
3 of that.

4           MS. HOLLANDER: As far as I know, this is what the  
5 Government provided me.

6           THE COURT: Do you have the transcript?

7           MS. HOLLANDER: I have the transcript. It is  
8 exactly the same as what is on here. That is what I am using.

9           THE COURT: Mr. Jacks?

10          MR. JACKS: Your Honor, on many of the intercepted  
11 calls, as with the video, the Government has taken those calls  
12 and pulled excerpts from those calls, and there are  
13 transcripts which reflect only the excerpts, and there are  
14 also audio files that reflect only the excerpts. And some  
15 calls are admitted in their entirety, but some calls have been  
16 redacted by the Government. And we have conveyed that fact to  
17 the Defendants before trial and told them that we were going  
18 to do that.

19          And we have provided not only the full call but we have  
20 also provided an audio file of the redacted version, and those  
21 have been provided so that they can see from listening, if  
22 they choose to listen to what the full call is and what the  
23 redacted part is and what will be played, and then the  
24 transcripts reflect also what has been redacted.

25          MR. DRATEL: Your Honor, that is not true because

1     what we received from the Government was not just an audio  
2     file that was complete. You know, we received the redacted  
3     versions of the transcripts themselves in terms of what the  
4     Government was going to put in So we get an exhibit marked  
5     El-Mezain Wiretap No. 4. It is what the Government wants to  
6     put in we also have the entire transcript. What they put in  
7     for this conversation with the exhibit number is the entire  
8     conversation.

9             MS. HOLLANDER: There are other ones on there.

10            THE COURT: You say you received a redacted  
11     transcript?

12            MR. DRATEL: No. I am saying when they put in a  
13     redacted transcript, that is what we receive. We don't  
14     receive a full transcript and audio file clips. We receive --  
15     When they redacted the transcript, we received a redacted  
16     transcript. In this one we received the entire transcript.

17            MS. HOLLANDER: I can make it clear. This is the  
18     Government's disk of all of their exhibits today. It has this  
19     one complete. It has the other ones which they have redacted  
20     exactly as they redacted them. So you know, what Mr. Dratel  
21     is saying is correct. For example, the other one that I  
22     complained about, it has the redactions the way I thought they  
23     were going in which was different.

24            MS. DUNCAN: May I add something to that? I just  
25     wanted to address a problem. I mean, this transcript was a

1 full transcript, and when we are getting ready to put together  
2 our crosses, we rely on Government's exhibits to determine our  
3 106 arguments and to come up with our questions. So when we  
4 are looking, as Ms. Hollander said, sometimes they give us  
5 their snippets and we can compare those snippets to the full  
6 conversations.

7 THE COURT: So you are getting the full transcript?

8 MS. DUNCAN: No, not now. We have had those. In  
9 the first trial the Government introduced the full  
10 transcripts. So we compare those to the first trial and see  
11 what they have redacted. So, you know, we have been relying  
12 on their exhibits to determine what they are bringing in and  
13 so for them to stand up now in the middle of cross and say,  
14 "Oops, we gave you the wrong one," it is just not fair.

15 THE COURT: I don't know that he said that. He said  
16 that they told you which ones they were redacting. I guess  
17 you need to check into that, Mr. Jacks, and find out.

18 MS. HOLLANDER: I can give you an example, Your  
19 Honor. Baker Wiretap No. 26, the one that I referred to the  
20 first time, what is on this disk is this and it says Baker  
21 Wiretap No. 26. We printed it off and it is like six or seven  
22 pages long, seven pages.

23 MR. JACKS: May I make a suggestion?

24 MS. HOLLANDER: May I finish?

25 THE COURT: Let him make a suggestion. This is not

1       telling me a whole lot, Ms. Hollander. Go ahead, Mr. Jacks.

2               MR. JACKS: When Ms. Hollander says this or this, if  
3 she can talk about what she has got in her hand.

4               MS. HOLLANDER: I will do that.

5               THE COURT: Here is what -- No. Here is what I  
6 want. You to get with Mr. Jacks, the Government, over lunch  
7 and see what you have. Show them what you have. I don't know  
8 what -- I haven't seen any of it, so I don't know what you are  
9 talking about, frankly. And he is correct. When you say, "I  
10 have this," and they gave me this," it is meaningless to me.  
11 What I want you to do is get with the Government attorneys and  
12 then see if this can be worked out. If it can't be worked  
13 out, obviously I will have to resolve something. He is  
14 telling me they let you know the redacted ones and you are  
15 saying, "No, they didn't."

16              MR. DRATEL: The bottom line is this. For this  
17 conversation they put in evidence the entire --

18              THE COURT: I understand that, but they are denying  
19 that, Mr. Dratel, and I don't know.

20              MR. DRATEL: Look at the disk.

21              THE COURT: And I don't have it, though.

22              MR. DRATEL: We will be happy to provide it.

23              THE COURT: Mr. Jacks said he did something  
24 different. Get with him and show him what you have, and it  
25 may be that it can be resolved. If it can't, we will have to

1 deal with it.

2 MR. DRATEL: Thank you, Your Honor.

3 MS. HOLLANDER: I don't mean to be unclear, Your  
4 Honor.

5 THE COURT: Well, you are unclear. It is unclear.  
6 And I want you to handle it that way before I hear another 15  
7 minutes of argument that is basically meaningless to me. It  
8 doesn't help me. I will have to look at this eventually if  
9 you can't resolve it. Just listening to you, it doesn't tell  
10 me anything other than I know you are saying different things.  
11 But see if you can resolve that. If not, we will have to deal  
12 with it.

13 We will be back at 1:45.

14 (Lunch recess.)

15 THE COURT: Are you ready? Are we going to your  
16 witness.

17 MS. SHAPIRO: Yes. I think we are going to  
18 interrupt at this point and go out of order. I don't know if  
19 you wanted to tell the jury that.

20 THE COURT: We can. I will explain. We have two we  
21 are going to take up out of order?

22 MS. SHAPIRO: Yes.

23 MR. CLINE: Your Honor, as to Mr. Simon, rather than  
24 the continuous objecting, may we have a continuing objection  
25 based on our earlier --

1 THE COURT: Yes, you may have that continuing  
2 objection.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: Ladies and gentlemen of the jury, we are  
5 going to take two witnesses out of order. Agent Miranda is  
6 going to step down from the witness stand. We have two  
7 witnesses in from out of town, maybe out of state, so we are  
8 going to take them out of order, and then we will come back to  
9 finish Agent Miranda's testimony.

10 Ms. Shapiro?

11 MS. SHAPIRO: Thank you, Your Honor.

12 The Government calls Steve Simon.

13 (Whereupon, the oath was administered by the Court.)

14 STEVEN SIMON,

15 Testified on direct examination by Ms. Shapiro as follows:

16 Q. Good afternoon, Mr. Simon. Could state your name and  
17 spell it for the record, please?

18 A. Steven Simon, S-T-E-V-E-N S-I-M-O-N.

19 Q. And where do you live, Mr. Simon?

20 A. I live in, Virginia.

21 Q. Okay. And do you have a college degree?

22 A. I do.

23 Q. And what is that degree in?

24 A. It is in classics and near eastern languages.

25 Q. Okay. And where did you graduate from?

1 A. Columbia University in New York.

2 Q. Okay. And do you know any near eastern languages?

3 A. Yes.

4 Q. We ones?

5 A. I have studied Arabic, Hebrew, Aramaic, Akkadian, and  
6 some Ugaritic, and some Syriac, which is kind of like Aramaic  
7 but a different alphabet.

8 Q. I won't ask you what all of those are.

9 Do you have a post graduate degree?

10 A. I have a post graduate degree in religion, religious  
11 studies, and one in international relations and economics.

12 Q. And where did you get those degrees from?

13 A. The religious studies one was from Harvard, and then the  
14 other one was from Princeton University.

15 Q. And after you finished -- Is that the end of your  
16 academic career, or were there additional degrees?

17 A. I was a university fellow at Brown University involved in  
18 translating some ancient semitic religious texts, and then I  
19 was at Oxford for a while.

20 Q. And what did you do at Oxford?

21 A. Middle eastern studies, and I at the Oriental Institute  
22 at Oxford.

23 Q. Okay. Did you get a degree from Oxford, or was that post  
24 graduate work?

25 A. No. I was a fellow, so, you know, it is sort of neither

1 fish nor foul. You aren't really a student but you aren't  
2 really a professor either.

3 Q. And what did you do professionally after you finished  
4 your graduate work?

5 A. I had kind of a checkered career. I did various things  
6 before entering the federal government, including being a  
7 freelance writer, but also working for New York City  
8 government and the human resources area, mostly having to do  
9 with policy on public welfare and medical assistance to the  
10 indigent, to the poor in New York City.

11 But then I switched to the federal government, worked for  
12 a short time at the Office of Management and Budget on the  
13 National Security spending plan, the White House spending  
14 plan, and then I moved to the State Department where I worked  
15 for about 20 years.

16 Q. Okay. And while you were at the State Department, did  
17 you have the opportunity to work for other federal government  
18 agencies?

19 A. Yes. I spent about five years, a little more than five  
20 years at the White House as a detailee. In other words, I was  
21 sent over by the State Department to work on the White House  
22 staff.

23 Q. And what years were you on detail at the White House?

24 A. '94 through '99. 1994 through 1999.

25 Q. Okay. And when you say you were on detail, does that

1 mean that the State Department continued to pay your salary  
2 while you worked over at the White House?

3 A. Well, strictly speaking, the State Department paid my  
4 salary for I think three of those years, and then my last two  
5 my salary was paid out of the White House travel budget or  
6 something. There was some, I don't know -- Accounting is way  
7 beyond me. But in any case, I was getting a federal paycheck.

8 Q. Okay. And what particular part of the White House did  
9 you work for?

10 A. Well, I was on the staff of the National Security  
11 Council.

12 Q. Could you explain for us what the National Security  
13 Council is?

14 A. Sure. It is a small group of mostly government  
15 employees, well, all government employees, but some from the  
16 State Department, some from the Defense department, some from  
17 the CIA, some from the FBI, from a variety of agencies that  
18 work to coordinate the President's foreign and defense policy;  
19 that is, to make sure that U.S. government agencies were doing  
20 the sorts of things that they needed to be doing to carry out  
21 the President's policies.

22 Q. And when you were at the National Security Council, who  
23 did you report to?

24 A. I reported in the first term to Anthony Lake, who was the  
25 national security advisor then, and subsequently to Samuel

1 Berger who was the national security advisor in the second  
2 term.

3 Q. Okay. And those people, Mr. Lake and Mr. Berger, they  
4 then reported directly to the President, or was there another  
5 person in between?

6 A. No, they would have reported directly to the President.  
7 Their title was Assistant to the President for National  
8 Security Affairs.

9 Q. Okay. And you said you left the NSC in 1999?

10 A. In the fall of 1999.

11 Q. What did you do after that?

12 A. I was assigned by the State Department to London where I  
13 served as the second in command, so-to-speak, of a research  
14 organization, the International Institute for Strategic  
15 Studies, and I did that for about three years, whereupon I was  
16 very close to retirement so I worked at the embassy for a  
17 while, and then was transferred back to the United States.

18 Q. And did you go -- What did you do once you got back to  
19 the United States?

20 A. I worked for the Rand Corporation.

21 Q. And what is the Rand Corporation?

22 A. It is a federally funded research and development  
23 corporation. It is a non-profit firm that helps the U.S.  
24 government work through mostly policy problems of a very  
25 practical nature that U.S. government agencies don't have the

1 personnel to work on.

2 Q. And how long did you work at Rand?

3 A. I was there for three years.

4 Q. Did you focus on any particular area when you were there?

5 A. Well, some of the work I did was classified, obviously,  
6 in the national security domain. I wrote or participated in  
7 some -- on the writing of some books on Middle East politics,  
8 and I ran, along with a colleague, a large project on building  
9 a successful Palestinian state; you know, what would be the  
10 best way to do that.

11 Q. And after you left Rand what did you do after that?

12 A. I went to the Council on Foreign Relations, which is  
13 basically another research organization, and I am the senior  
14 fellow there for Middle Eastern studies.

15 Q. And that is where you are currently employed, or is that  
16 an honorary position?

17 A. I am also kind of a professor, too, elsewhere, but yes.  
18 Well, it is not so much an honorary position, the Council on  
19 Foreign Relations. I just go and work for a living.

20 Q. And you said you teach. Do you teach at a university?

21 A. I teach at Princeton University in New Jersey.

22 Q. Do you teach a course there?

23 A. Yes.

24 Q. What course is that?

25 A. It is a course -- This semester I am teaching

1       undergraduates, and it is a seminar on political violence.

2       Q.     Is that an undergraduate course?

3       A.     Yes.

4       Q.     Okay. And over the course of your career have you  
5       written books?

6       A.     Yes.

7       Q.     Can you tell us what those books are that you have  
8       written and published?

9       A.     I published a book in 2003 called Iraq in the Shadow of  
10      Regime Change, which was about -- it was a study of Iraqi  
11      society and the relationship between Iraqi society and the  
12      Iraqi state in the period preceding the U.S. invasion of 2003.

13            Then I did a book called The Age of Sacred Terror, which  
14      was about the origins of a holy war and how it came to be  
15      carried out against the United States, but also it was about  
16      the way in which the United States responded to the emergence  
17      of this very serious development.

18            And afterward I wrote another book with the same  
19      colleague called The Next Attack, which took the story from  
20      9/11 through to the present.

21      Q.     Okay. I want to focus your attention on the time that  
22      you spent at the National Security Council, which I believe  
23      you said was 1994 through 1999. Is that correct?

24      A.     That is correct.

25      Q.     Okay. What was going on between the Israelis and the

1     Palestinians during that period of time?

2     A.    Well, there was a lot going on -- Excuse me.  I have a  
3     bad cough, as you can tell.  What was going on at one level  
4     was actually very favorable.  In 1993 the Israelis and  
5     Palestinians had signed a document called the Declaration of  
6     Principles, which was -- I am not an historian, but it was  
7     quite an important event because it entailed the recognition  
8     by Israel of a Palestinian leadership with political  
9     authority, and was thought at that time to be the first step  
10    toward an agreement between Israelis and Palestinians that  
11    would result in a state for the Palestinian people.  At the  
12    same time there was a lot of fighting.

13    Q.    Were that principle of agreement, was that also known as  
14    the Oslo Accords?

15    A.    Yes.  The Declaration of Principles came out of the Oslo  
16    Accords.

17    Q.    Okay.  And what was the role of the National Security  
18    Council with respect to the Oslo Accords?

19    A.    Well, it was -- You know, the role was multi-layered.  It  
20    wasn't just one thing.  The National Security Council staff  
21    was involved in helping the Israelis and Palestinians figure  
22    out how to work through some of the problems, the log jams  
23    that arose in the process of these negotiations, and in  
24    particular advising the President of the United States on how  
25    best to interact with leaders on the Palestinian and on the

1 Israeli side, and also making sure that the State Department  
2 was doing what it was supposed to do, and the CIA, too,  
3 because all sides needed information about what was going on  
4 because it was important in a negotiating process to keep all  
5 the parties honest. So the National Security Council staff  
6 was involved in making sure that all these things were  
7 happening as they should be.

8 Q. I just want to make clear, since you -- Presumably at the  
9 National Security Council you had access to classified  
10 information. Is that right?

11 A. I did, yes.

12 Q. But you are not relying on any classified information in  
13 your testimony today. Correct?

14 A. Oh, certainly not, no.

15 Q. Okay. During the time that you were at the National  
16 Security Council and these negotiations were going on, was  
17 there anything happening that tended to impede those  
18 negotiations?

19 A. Well, yes. There were things on both sides that were  
20 problematic, but 1993 was the year in which the Declaration of  
21 Principles was signed, and that was followed in 1994 by a lot  
22 of terrorist violence by Palestinian groups that were looking  
23 to bring the peace process to a halt, if they could.

24 Q. And was Hamas one of those organizations?

25 A. Hamas was one of those organizations, yes.

1 Q. And was there anything about the timing of those  
2 terrorist attacks that coincided with events going on in the  
3 negotiations?

4 A. Well, you know, the negotiations were at that point  
5 almost a non-stop process, because the issues were very  
6 complicated and the differences between the two sides on some  
7 of them was quite wide, and there was a lot of diplomatic work  
8 entailed in bridging those differences. So the negotiations  
9 never really stopped. And certainly there were U.S. diplomats  
10 going back and forth that whole time trying to keep the train  
11 on the track, if I can use that expression.

12 Q. And so how did the terrorist attacks impact that process  
13 of constant negotiation?

14 A. Well, the terrorist attacks were, you know, serious  
15 problems, because the key to a successful agreement, most  
16 people thought, and I think it is kind of hard to argue with  
17 this, but the key to a successful agreement was going to be  
18 trust between the two parties. The two parties had to sign up  
19 to, you know, a pretty long-term marriage basically in very  
20 close proximity to one another, so trust was really key.

21 And, you know, at the same time as the Palestinian  
22 leadership that was involved in the negotiations was trying to  
23 build this sort of trust --

24 Q. What was that Palestinian leadership, if I can just  
25 interrupt you a second? What was that called?

1 A. It was the Palestinian Authority.

2 Q. And that was -- The Palestinian Authority was created as  
3 a part of this negotiation process?

4 A. Correct.

5 Q. Okay. I am sorry. Continue.

6 A. And just as the Palestinian Authority was trying to build  
7 the sort of trust that would move things along, these  
8 terrorist attacks were undermining that trust by convincing  
9 the Israeli public that the other side, that the Palestinian  
10 side couldn't really be trusted, so it was damaging.

11 Q. And did the United States have an interest in having a  
12 successful resolution to those negotiations?

13 A. The U.S. had a strong interest in this, yes.

14 Q. And can you explain for us what some of the United  
15 States' interests were in having a negotiated resolution to  
16 the conflict between the Israelis and the Palestinians?

17 A. Well, U.S. interests are closely bound up with Middle  
18 Eastern politics.

19 Q. In what way?

20 A. Well, you know, to be blunt, oil is extremely important  
21 to the United States, and the U.S. economy relies very heavily  
22 on energy that comes out of the Middle East region, which has,  
23 apart from Russia, the preponderance of oil. They have just  
24 got most of the oil. And the U.S. has since the Second World  
25 War maintained close relations with most of the oil producers,

1 just as a matter of a strategic interest, vital strategic  
2 interest.

3 Q. And how does the peace or lack of peace affect our  
4 relationships with oil-producing countries?

5 A. Well, you know, the links are many, and they combine with  
6 one another. I will give you a few examples. The U.S. relies  
7 on the cooperation of Arab states, not just oil producers but  
8 important Arab states that surround the oil producers, for  
9 military cooperation as well as economic cooperation, and  
10 these ties are necessary to protect and advance our national  
11 interest in maintaining a secure access to the energy supplies  
12 that we need.

13 Well, I think, you know, most of us have a sense that the  
14 countries out there on whom we rely aren't exactly democracies  
15 in many cases, but that doesn't mean that public opinion is  
16 not very important, because even in countries that aren't  
17 democracies, at least in the Middle East, I don't know about  
18 other areas, governments need to maintain some kind of  
19 legitimacy. They need to to satisfy public opinion. And here  
20 is the rub. Public opinion in those countries cares a lot  
21 about the fate of the Palestinians and whether or not the  
22 Palestinians get a state. People just really care.

23 Q. So how does conflict in that region spill over to the  
24 United States' interests?

25 A. Well, to the extent that America is seen as not doing

1 enough to help the Palestinian cause, then Arab governments  
2 have to answer to their people, so-to-speak, about why it is  
3 they are so close to the United States and they are doing the  
4 U.S. so many favors when the U.S. isn't dealing with a problem  
5 that the Arab public really care about. "What is going on,"  
6 they will ask.

7 Q. Would it help the United States' relationship with those  
8 countries if the Israeli-Palestinian conflict were taken off  
9 the table, so-to-speak?

10 A. Yes, I think it would. It is not a magic bullet, but I  
11 think it would help a great deal.

12 Q. Are there other national security interests of the United  
13 States that are put at issue through this conflict, this  
14 ongoing conflict in the Middle East?

15 A. Yes. I mentioned that, you know, there were a number of  
16 factors and they were interlocking. And apart from the fact  
17 that the United States has had a military presence in the  
18 region for a longtime, for which it needs bases and needs  
19 support, requires security, the fact that the United States  
20 has a fleet, has actually two fleets in the region, it has a  
21 fleet in the Mediterranean and a fleet in -- nowadays a fleet  
22 in the Persian Gulf, and had the makings of a fleet even back  
23 in the early '90s after the first Gulf War in that area, there  
24 is a lot of military support that is needed. Then there were  
25 proliferation concerns.

1 Q. What do you mean by proliferation?

2 A. Well, what I mean by that is there is at least one  
3 country in the region, Iran, that is seeking nuclear weapons,  
4 and which doesn't really like the idea of a very strong  
5 American presence in their neighborhood. Well, you know, that  
6 makes the cooperation of the Arab states in that region all  
7 the more important for the United States. The United States  
8 needs to keep those countries on its side in this  
9 long-simmering battle, really, with Iran over who is going to  
10 have the greater influence in that very important part of the  
11 world.

12 And at the same time, you know, Iran is trying to extend  
13 its influence to other parts of the region, particularly  
14 Lebanon, but also Iraq, and this also, in turn, puts a premium  
15 on the U.S. getting the support of Arab countries in the  
16 region.

17 Since the perception that the U.S. is really trying to  
18 help the Palestinians and Israelis find a solution to their  
19 problem is important to these countries, then it follows that  
20 it is important to America's national interests that the  
21 United States find a way to work productively with Israelis  
22 and Palestinians to bring that conflict to an end.

23 Q. Okay. So let me just come full circle. Why is it that  
24 we in the United States should care about an organization like  
25 Hamas that is trying to undermine the Middle East peace

1 process? And I won't limit that just to Hamas, but any  
2 terrorist organization.

3 A. The problem now, and we all know this since 9/11, is not  
4 just that the U.S. has powerful interests in maintaining a  
5 secure supply of oil, but we now know that people from there  
6 who are angry at the United States are motivated and capable  
7 of coming over here and hurting us quite badly; and if not  
8 hurting us here badly, hurting us elsewhere badly. The United  
9 States is a global power. We are all over the place. We are  
10 very exposed. So, you know, to the extent that the United  
11 States can remove one cause of resentment against America, we  
12 reduce the threat against the United States correspondingly.  
13 It is hard to do, but it is very important work.

14 MS. SHAPIRO: May I have a moment, Your Honor?

15 THE COURT: Yes.

16 Q. (BY MS. SHAPIRO) The interests that you were just  
17 talking about just a moment ago, is it fair to say that that  
18 applied -- that it was equally true during the time that you  
19 served in the National Security Council between 1994 and 1999?

20 A. Yes. There was a good deal of concern at that time about  
21 the extent of resentment against the United States, and there  
22 were numerous studies that were being done that crossed my  
23 desk when I came to the White House in 1994 on this subject.

24 And, you know, the Israeli-Palestinian issue we knew had  
25 been kind of a real irritant, you know, for Arabs for a long

1 time, for the Arab states for a long time, but we were  
2 beginning to come under somewhat greater pressure from Arab  
3 governments to do something about it, because these  
4 governments wanted to, in fact, they needed to maintain close  
5 relations with the United States, but they didn't want to  
6 have, you know, those diplomatic and other relations  
7 complicated at home by questions about the appropriateness  
8 from, you know, the perspective of Arab publics of such a  
9 close relationship between their governments and the United  
10 States government.

11 Q. Thank you.

12 MS. SHAPIRO: Pass the witness.

13 THE COURT: Mr. Dratel?

14 CROSS EXAMINATION

15 By Mr. Dratel:

16 Q. Good afternoon.

17 Now, you spoke about interlocking factors, a number of  
18 interlocking factors that go into U.S. national interests in  
19 the Middle East. Right? And one of the things that you  
20 talked about also was Arab governments and Arab populations  
21 and resentment over the failure to resolve the  
22 PalestinianIsraeli issue. And obviously one of those  
23 resentment -- Withdrawn.

24 Isn't it true that one of the causes of resentment in  
25 that part of the world, the Arab governments, Arab

1 populations, was the perception that the U.S. was supporting  
2 Israel as opposed to the Palestinians?

3 A. Yes.

4 Q. And part of the reason that Arab governments came to the  
5 United States to do something was the perception that the U.S.  
6 government could have some influence with Israel in moving  
7 Israel towards a peaceful solution.

8 A. Yes.

9 Q. And part of the resentment has to do with historical  
10 factors. Right? In the Arab world?

11 A. History just gets involved.

12 Q. And I will be more specific, but I just wanted to preface  
13 it with -- And these are among the factors, obviously, that go  
14 into this whole catalog of factors that go into the U.S.  
15 interests. And one is obviously in 1948 the birth of Israel  
16 and the displacement of hundreds of thousands of Palestinians.  
17 Right? You have to answer yes or no.

18 A. I am sorry. Yes, indeed.

19 Q. And created a refugee crisis, essentially.

20 A. Yes.

21 Q. And created an -- And in response to that refugee crisis,  
22 one of the things that was created was an entire United  
23 Nations refugee organization that still exists today.

24 A. The U.N. Relief and Works Agency.

25 Q. UNWRA we will call it. Right? And that is designed to

1 try to help this refugee problem get resolved, even though it  
2 is still sixty years down the road, and still operating to do  
3 that.

4 A. Correct.

5 Q. And another aspect of this resentment is Israel's  
6 occupation since 1967 of the West Bank and Gaza. Right?

7 A. Yes.

8 Q. And that was a military occupation. Right?

9 A. Yes.

10 Q. And that was as a result of the Six Day War in 1967 where  
11 Israel essentially captured that territory?

12 A. Yes.

13 Q. And that created more refugee camps. Right? Or at least  
14 an aggravation of the problem of the existing refugee camps.

15 A. Yes.

16 Q. And Israel not only was a military occupier during this  
17 period, but also was essentially the administrator of these  
18 territories, West Bank and Gaza, during that period.

19 A. Yes.

20 Q. And there was no Palestinian government at all during  
21 that period.

22 A. During which period?

23 Q. '67 to '94 in the West Bank and Gaza.

24 A. '67 and '93, I believe.

25 Q. '93. Well, the PA was created by the Oslo Accords.

1 Right? And it took a year or so to get up and running. Is  
2 that fair to say?

3 A. It is still getting up and running.

4 Q. But the occupation, the military occupation by Israel of  
5 the West Bank and Gaza created economic problems in those  
6 territories. Right? For the Palestinians?

7 A. Periodically when there were closures following terrorist  
8 attacks.

9 Q. But in addition, also, wasn't there also a problem with  
10 respect to settlement activity by Israel that created --

11 A. There was a source of serious resentment.

12 Q. Yes. That the Israelis established settlements in some  
13 of these occupied territories.

14 A. That is correct.

15 Q. And that was not only among Palestinians, but others as  
16 well around the world.

17 A. Correct.

18 Q. Not just Palestinians. I am saying, not just  
19 Palestinians around the world, but others as well.

20 A. Correct.

21 Q. And not just Muslims.

22 A. Correct.

23 Q. And as far as some of these economic problems, the  
24 confiscation or the taking of land for settlements and other  
25 purposes by Israel created economic problems for Palestinians

1 in the territories.

2 A. Yes.

3 Q. And water rights and water diversion is another issue  
4 with respect to how much water Israel lets flow from the  
5 Jordan River to the Palestinians for their use, as opposed to  
6 what Israel takes for its use, is another issue. Right?

7 A. There is a water issue, but that is not it. But your  
8 point is correct, there is a water issue.

9 Q. Okay. And the first Intifada, you are familiar obviously  
10 with that. And that is the latter part November, December  
11 1987. And in large part, the first Intifada is an outgrowth  
12 of these conditions that we are talking about and this  
13 resentment building up from 1967.

14 MS. SHAPIRO: Your Honor, I am just going to object  
15 as beyond the scope. I kept my direct very focused.

16 THE COURT: I will overrule it at this point.

17 THE WITNESS: I am sorry. Could you repeat?

18 Q. (BY MR. DRATEL) Sure. That the first Intifada is  
19 essentially an outgrowth of this 20-year period of military  
20 occupation.

21 A. Yes.

22 Q. Now, I want to focus on Oslo a bit. You talk about the  
23 Oslo Accords, we will call them, the Declaration of Principles  
24 that followed. That was part of your direct. And it is one  
25 of these interlocking factors in terms of United States --

1 involvement in United States' national interests.

2 Now, it is true, isn't it, that there were people, in  
3 fact many people who opposed the Oslo Accords on both  
4 sides--on the Palestinian side and on the Israeli side? You  
5 have to answer.

6 A. Sorry. Yes.

7 Q. And not just extremists, but people who might not be  
8 characterized as extremists.

9 A. Yes.

10 Q. Are you familiar with Edward Said?

11 A. Yes.

12 Q. He was a Columbia professor. Right?

13 A. Yes, comparative literature.

14 Q. Yes. Did you actually take any of his classes?

15 A. No, but I signed his book.

16 Q. And he was opposed to Oslo. Right?

17 A. Yes.

18 Q. And he was a spokesperson for Yasser Arafat, who  
19 resigned, who actually left in protest over Oslo. Right?

20 A. Who resigned?

21 Q. Said.

22 A. Yes.

23 Q. And he called the Oslo Accords, and I am quoting here,  
24 "the repackaging of the occupation."

25 A. Yes.

1 Q. And as you mentioned, Oslo is really a first step and not  
2 the end result of -- not a fully packaged peace plan, but a  
3 first step. Right?

4 A. Yes.

5 Q. And it did not -- In terms of when we are talking about  
6 resentment in Arab countries and Arab countries putting  
7 pressure on the U.S., and even after Oslo, to continue the  
8 process and the opposition to Oslo among people, let's say  
9 non-extremists, like Edward Said -- Would you consider him a  
10 non-extremist?

11 A. He was not an extremist, not really, no.

12 Q. Okay.

13 A. I don't think he ever strangled anyone with his bare  
14 hands.

15 Q. But part of their reasons for opposing Oslo is that it  
16 did not in fact create a Palestinian state; that they felt  
17 they didn't go far enough?

18 THE COURT: Counsel, I don't know why we need to get  
19 into all the detail about the Oslo Accords.

20 MR. DRATEL: We are talking about the resentment?

21 THE COURT: We don't need to get into that kind of  
22 detail. You established resentment. That is not here before  
23 the jury.

24 Q. (BY MR. DRATEL) And did it also cede too much territory  
25 to Israeli control? You are familiar with Areas A, B, and C?

1 A. Yes.

2 MR. DRATEL: And if I could put what is already  
3 marked and is in evidence as Defendants' -- If we can have the  
4 elmo, please. What is already in evidence as Defendants'  
5 No. 1013.

6 Q. (BY MR. DRATEL) And I am going to show you the bottom  
7 first -- Can you read what is on the document on the screen?

8 A. I can, yes.

9 Q. Okay. So the orange areas is Area A. Right?

10 MS. SHAPIRO: Your Honor, I am just going to again  
11 object that this is well beyond the scope of direct and we are  
12 getting into the specific details of the Oslo Accords.

13 THE COURT: This map is in evidence. I think it has  
14 been discussed. Go ahead.

15 MR. DRATEL: Thank you, Your Honor.

16 Q. (BY MR. DRATEL) So the orange area is Palestinian  
17 cities?

18 A. Yes, that is what this says, but I am not familiar with  
19 this nomenclature. It doesn't correspond to what I recall.

20 Q. Okay. Well, could you describe A, B, and C?

21 A. But I can read it, yes.

22 Q. And B would be Palestinian villages. Right?

23 A. That is what this says, yes.

24 Q. And C is Israeli settlement, military areas, and state  
25 lands.

1 A. That is what it says, yes.

2 Q. And just to define it in more simple terms or plain  
3 terms, Area A is an area that is under the control of the  
4 Palestinian Authority. Is that right? Would that be?

5 A. And B is shared, and C is under Israeli control.

6 Q. When you say shared, what do you mean by shared?

7 A. Authority is divided along some lines that, to be honest,  
8 I can no longer remember.

9 Q. Is it military controlled by the Israelis and  
10 administrative control by the Palestinians?

11 A. I don't remember.

12 Q. Okay. Oslo itself, the Oslo process was in fact done  
13 secretly by the Palestinians and the Israelis, the PLO, the  
14 Fatah, Arafat organization, and the Israelis. Right? The  
15 U.S. actually didn't participate in those direct negotiations  
16 that led specifically to the Oslo Accords.

17 A. Not initially.

18 Q. And in fact the U.S. was trying on another front with the  
19 Madrid Conference to try to promote an agreement separately.

20 A. Yes. Well, the United States was doing both. It was  
21 following the Madrid Conference on the one hand, and when the  
22 Israelis and Palestinians reached an impasse in the Oslo  
23 process, the United States intervened and helped the two sides  
24 broker the deal that resulted in the Declaration of  
25 Principles.

1 Q. Okay. And another aspect if you talk about resentment  
2 and one of these factors that goes into it, another cause of  
3 resentment that the U.S. had to address in the context of  
4 trying to broker something and satisfy its Arab allies were  
5 Israeli detention policies. Right? I mean, there was concern  
6 about Israeli security detention, administrative detention  
7 without trial.

8 A. The Israeli government and the military administration  
9 practices pretrial detention.

10 Q. And there is also torture of detainees. The Israeli  
11 Supreme Court found that.

12 MS. SHAPIRO: Objection, Your Honor.

13 THE COURT: Counsel, sustained.

14 Q. (BY MR. DRATEL) Another factor right before you joined  
15 essentially, or maybe a year, but the 1992 deportation of  
16 about 400 persons by Israel to Lebanon. Right? That was  
17 another factor that caused resentment in the Arab world, and  
18 around the world, in fact.

19 A. It got a lot of publicity.

20 Q. And in fact the U.S. Signed a U.N. resolution condemning  
21 Israel. Correct? 799?

22 A. I actually wasn't working on this account in 1993 or  
23 whenever that was. No, this is the 400 going to --

24 Q. Yes, Lebanon.

25 A. Oh, yeah. I was working on something else then.

1 Q. Okay. Now, during the course of your tenure at the  
2 National Security Council wasn't there also continued  
3 resentment among people, let's say in the Arab world and  
4 elsewhere in the context of the Israeli-Palestinian issue,  
5 about Israel's failure to meet certain post Oslo deadlines; in  
6 other words, certain deadlines that were set forth in the Oslo  
7 agreement that Israel failed to meet in terms of surrendering  
8 territory and other matters?

9 A. I know the administration in Washington wanted the  
10 Israelis to move quicker on these things, but I don't know  
11 about other countries actually.

12 Q. But weren't there specific deadlines that Israel failed  
13 to meet in the context of --

14 A. There were deadlines that both sides had to meet.

15 THE COURT: Counsel, that is the whole problem about  
16 getting into the politics of both sides --

17 THE WITNESS: Neither side actually met the  
18 deadlines.

19 THE COURT: You asked the question.

20 MR. DRATEL: I understand, but --

21 THE COURT: Move on to another area now besides all  
22 the politics. You are wanting to get further and further into  
23 that, and that is not involved here.

24 MR. DRATEL: Your Honor --

25 THE COURT: Counsel, we discussed this before.

1 MR. DRATEL: May we approach, Your Honor?

2 THE COURT: No. We have discussed it before.

3 Q. (BY MR. DRATEL) And was another factor that you had to  
4 address on the National Security Council in terms of U.S.  
5 interests and factoring all these things into account was  
6 violence by Israelis or Jews against Palestinians? You have  
7 to answer --

8 A. In the time frame we are talking about, I don't think  
9 that that was a major concern. Are you talking 1994?

10 Q. Yes. Baruch Goldstein was in 1994.

11 A. That was Baruch Goldstein and the massacre of 29 I guess  
12 -- I think it was 29 Arab worshippers.

13 Q. Yes.

14 A. -- in Hebron was a serious crisis, but it wasn't repeated  
15 and it was quite apparently the act of, you know, a deranged  
16 person.

17 Q. But there were other plots as well. There was a temple  
18 mount plot to destroy the temple mount, that was halted.  
19 Right?

20 A. That was halted, yes. In fact, it never really got  
21 anywhere.

22 Q. And is there an organization in Israel called Gush  
23 Emunim?

24 MS. SHAPIRO: Objection, Your Honor.

25 THE COURT: Sustained.

1 THE WITNESS: Gush Emunim --

2 THE COURT: You don't need to answer that.

3 Q. (BY MR. DRATEL) These are part of the things that you  
4 have to factor in the Israeli political -- Don't you have to  
5 also factor in the Israeli political --

6 THE COURT: Counsel, he may have but we are not  
7 going into those here.

8 MR. DRATEL: But she asked about U.S. factors.

9 THE COURT: And he discussed certain things, and you  
10 can discuss those, but now you are expanding the area.

11 Q. (BY MR. DRATEL) I am saying, is that a U.S. factor, the  
12 political situation in Israel. When you were in the political  
13 situation in Israel a factor that you had to -- something you  
14 had to factor in in U.S. security interests?

15 A. Yes.

16 Q. Okay. And Gush Emunim was a --

17 THE COURT: Counsel, I sustained the objection to  
18 that.

19 MR. DRATEL: I thought I established a predicate to  
20 that, Your Honor.

21 Q. (BY MR. DRATEL) And the Likud party was one of the major  
22 parties in Israel. Right?

23 A. Correct.

24 Q. And the Likud party's position was opposed to Oslo and  
25 surrendering any land for a Palestinian state.

1 A. No.

2 Q. That is not their platform?

3 A. The Likud prime minister Benjamin Netanyahu, who  
4 participated in the accords, negotiations, and ratified the  
5 kinds of concessions of the map that you displayed represent.

6 Q. Now, did you also have to address as part of these  
7 factors the Palestinian perception of bias against  
8 Palestinians in favor of Israel in the U.S. in terms of the  
9 U.S. government?

10 A. Yes.

11 Q. And as part of your job at the National Security Council  
12 you were involved in preparing other administration officials,  
13 government officials for appearances in front of what might be  
14 termed pro-Israel organizations. The American-Jewish  
15 Committee. Is that fair to say?

16 A. I might have I just don't remember.

17 MR. DRATEL: May I approach, Your Honor?

18 THE COURT: Is it a follow-up to these last  
19 questions you are asking?

20 MR. DRATEL: Yes.

21 THE COURT: Do you have an objection to this area of  
22 questioning?

23 MS. SHAPIRO: I object to relevance and outside the  
24 scope.

25 THE COURT: Sustained.

1           MR. DRATEL: Your Honor, it has to do with his job  
2 at the NSC. This is part of what he did at the NSC.

3           THE COURT: But we are getting into areas that are  
4 just not relevant to this case before this jury, counsel.  
5 There are a lot of things he did with the NSC but are not  
6 relevant here.

7 Q. (BY MR. DRATEL) Does it have to do with --

8           THE COURT: Counsel --

9 Q. (BY MR. DRATEL) Was another factor that had to be  
10 factored in was the need of the Palestinians and the need to  
11 continue humanitarian aid to the West Bank and Gaza?

12 A. If I recall correctly, the issue at that time was  
13 maintaining economic performance.

14 Q. But was there need --

15 A. Because there wasn't a humanitarian crisis.

16 Q. You don't think there was a humanitarian crisis at that  
17 point. Okay.

18           MR. DRATEL: I have nothing further, Your Honor.

19           THE COURT: Thank you.

20           Who is next? Anybody?

21           MR. CLINE: No, Your Honor.

22           MR. WESTFALL: No, Your Honor.

23           THE COURT: Ms. Cadeddu, any questions?

24           MS. CADEDDU: NO, Your Honor.

25           THE COURT: And Ms. Hollander, any questions?

1 MS. HOLLANDER: No, sir.

2 THE COURT: Ms. Shapiro, any follow-up?

3 MS. SHAPIRO: Just a moment, Your Honor.

4 THE COURT: Okay.

5 MS. SHAPIRO: No further questions, Your Honor.

6 THE COURT: Mr. Simon, you may step down. You are  
7 free to go. Thank you.

8 Next witness?

9 MR. DRATEL: Your Honor, may we approach?

10 THE COURT: You can come up while we are getting the  
11 next witness.

12 (The following was had outside the hearing of the  
13 jury.)

14 MR. DRATEL: I talked about politics. That is all I  
15 was getting into. And I was not permitted to go through all  
16 the factors --

17 THE COURT: You were getting into --

18 MR. DRATEL: I am wanting to --

19 THE COURT: I am not going to argue with you.

20 MR. DRATEL: I am not arguing.

21 THE COURT: Yes, you are.

22 MR. DRATEL: I am just making a record.

23 THE COURT: Go have a seat before you get in  
24 trouble.

25 MR. DRATEL: I am going to --

1           THE COURT: Go have a seat before you get in  
2 trouble.

3           MR. DRATEL: I am asking for a mistrial.

4           THE COURT: You have a seat before you get in  
5 trouble.

6           MR. JACKS: You wanted to talk about this next  
7 witness. He is an FBI agent, retired FBI agent who found  
8 Marzook's phonebook in New York. Mr. Cline wanted to raise an  
9 objection. He is going to get into some of the answers  
10 Mr. Marzook gave him, and he objected to those as hearsay.  
11 Our position is they are not for the truth; that it is just to  
12 show the conversation they had. He was asked, "Where is your  
13 contact information? Do you have an address book?" He said,  
14 "No, I don't." So it is not being offered for the truth of  
15 his answers, but just to show the give and take that he had  
16 that led to the decision to search them.

17           MR. CLINE: We have no objection to the testimony  
18 that he recovered the address book from Marzook. I think that  
19 is undisputed in the record. We do object to the witness'  
20 recitation of what Marzook said.

21           We object on confrontation clause grounds, hearsay  
22 grounds, but also on Rule 401 and 403 grounds. This wasn't  
23 one of the Defendant's books. There is no evidence that the  
24 Defendants had any idea that Marzook had the phonebook with  
25 him, that he was going to deny it, that they advised him to

1 deny it, that they knew he was denying it. It has nothing to  
2 do with the Defendants. It is being offered to effectively  
3 impute the Defendants on the scene, on the spot deceptiveness,  
4 and I think under 401 and 403 it should not come in.

5 THE COURT: What about his argument that they are  
6 not offering it for the truth?

7 MR. CLINE: That may or may not take care of the  
8 hearsay and the confrontation issues. I don't believe it  
9 does. But putting those aside for a minute, there is still a  
10 relevance and 403 problem, even if it is not hearsay, because  
11 what does it have to do --

12 THE COURT: Confrontation --

13 MR. CLINE: But all of that aside for a moment, what  
14 does it have to do with the Defendants? The only way it could  
15 be relevant is if somehow Marzook's deceptiveness about the  
16 phonebook, or whatever it is, the address book, could be  
17 imputed to the Defendants, and there is no evidence connecting  
18 that to the Defendants at all. It appears he was arrested, to  
19 his surprise, at the airport, and on the scene he is  
20 questioned by agents and he lies to them about the phonebook.  
21 It has nothing to do with the Defendants.

22 MR. JACKS: Judge, the relevance doesn't turn on  
23 whether or not they knew he was carrying it. They knew he was  
24 coming in. That is not what decides the relevance. If him  
25 lying about whether he had an address book or not is

1 prejudice, what about him being the head of the terrorist  
2 organization?

3 I mean, when you put the two side by side and say, "This  
4 is under 401 him lying about it, it is prejudice to our  
5 client," but the fact that he is the head of a terrorist  
6 organization, that is -- I guess I didn't make my point  
7 clearly. But it is needed to tell the story, to make the  
8 story flow about the meeting with him, the conversation.

9 THE COURT: Why do you need that? The point is you  
10 got this phonebook. You are trying to get in this  
11 conversation to show he lied.

12 MR. JACKS: The security document talks about  
13 concealing, you know, address books and phonebooks. That is  
14 exactly what he did. It was hidden within his wife's  
15 undergarments, and it corroborates --

16 THE COURT: Why don't you establish where they found  
17 it without getting into what he said.

18 MR. JACKS: Your Honor, I mean --

19 THE COURT: You can establish that.

20 MR. JACKS: I mean, Mr. Cline is almost conceding  
21 that it is not hearsay and it is not confrontation.

22 MR. CLINE: I am not conceding anything.

23 MR. JACKS: I understand. Statements not offered  
24 for the truth, they are just contextual and they are just  
25 statements. It is clear that he lied when he said, "I don't

1 have an address book," and he did. So we are not trying --

2 THE COURT: You don't think that imputes anything to  
3 the Defendants?

4 MR. JACKS: It is relevant in the case, but in terms  
5 -- It is certainly not unfairly prejudicial. You can impute  
6 to it that a co-conspirator came into the country and was  
7 hiding his address book, to the extent that that can impute  
8 something to them, but it certainly doesn't do anything under  
9 401 and 403 to keep it out.

10 MR. CLINE: It is just not relevant to anything the  
11 Defendants in this case did. The fact that he is a Hamas  
12 leader, that is clearly relevant in light of the Defendants'  
13 connections with him and so on. The fact that he went and was  
14 questioned at the airport about his address book and he lies  
15 has nothing to do with the Defendants in this case. And of  
16 course the jury is going to impute that to the Defendants.  
17 Otherwise they are not -- That is the only reason the jury can  
18 figure it is in this case is because it has something to do  
19 with the Defendants, and it doesn't.

20 If they want to testify about the agent looking at his  
21 wife's luggage and finding it, they can do it, but they  
22 shouldn't be able to get in this statement.

23 MR. JACKS: He is a co-conspirator as well, so he  
24 can justify it as a co-conspirator statement, that he is  
25 making a false statement to keep the conspiracy under wraps,

1 to keep these law enforcement officers from finding his  
2 address book which has the names and phone numbers of all  
3 these other people that are on the Palestine Committee. So  
4 there is two prongs there under which this conversation can  
5 come in. And as I said, in the --

6 THE COURT: This was in 1995?

7 MR. JACKS: 1995, and really in the middle of this  
8 time frame we are talking about.

9 THE COURT: What about the co-conspirator statement?  
10 Why wouldn't it come in under that?

11 MR. CLINE: Putting aside the fact that Your Honor  
12 has not made any findings at all about the co-conspirators  
13 yet, and won't until the end of the case, even if one were to  
14 assume that it was a co-conspirator statement, that doesn't  
15 overcome the relevance of the 403 issues. The question is  
16 what is the relevance of this man's on-the-scene lying,  
17 apparently, to an agent where there is no evidence that it had  
18 any connection whatsoever to any of the Defendants? It  
19 doesn't have -- It is --

20 THE COURT: But you are saying that for a statement  
21 of a co-conspirator to be admissible it has to have connection  
22 with all of the rest of the Defendants. That is not true. If  
23 it is a co-conspirator statement, it seems to me that it would  
24 come in.

25 MR. CLINE: There would have to be a showing to be a

1 co-conspirator statement that it has to be in furtherance of  
2 the conspiracy.

3 THE COURT: That is why I was asking about  
4 Mr. Jacks' argument. They arrested him. The evidence is that  
5 he was the head of Hamas. There has been some evidence  
6 linking HLF with Marzook. Does he have the Defendants' names  
7 and numbers in the phonebook?

8 MR. JACKS: Yes, sir.

9 THE COURT: There is other evidence --

10 MR. JACKS: He has three of them.

11 THE COURT: He links it with some of them, and there  
12 is other evidence linking Marzook with HLF. So when they ask  
13 him and he lies, trying to cover it up and hide it, that would  
14 seem to be in furtherance of trying to keep --

15 There is case law that deception, as long as it is during  
16 the conspiracy, would appear to be in furtherance, because  
17 that is the only reason he would have for keeping that  
18 information from law enforcement officers. So it would be  
19 appear to be -- It didn't have to be successful, but it would  
20 appear to be in furtherance of the conspiracy.

21 Once you are there, why wouldn't it come in?

22 MR. CLINE: Well, I think it would not come in  
23 because there is nothing to suggest, first of all, that that  
24 was his reason for lying; second, that the Defendants --

25 THE COURT: But isn't that up to the jury? I think

1     you can argue whatever, and ultimately that is for the jury to  
2     decide. But that is an inference and a reason. Ultimately it  
3     is for the fact-finder. But I still am having trouble why,  
4     once you are there, that it doesn't come in. And the jury  
5     will give it whatever weight they choose to give it  
6     ultimately.

7             MR. CLINE: To me, if it has any marginal relevance,  
8     it is a 403 issue, and it is going to be imputed -- Apart from  
9     hearsay and confrontation, it is going to be imputed to the  
10    Defendants that this man was somehow lying on their behalf or  
11    at their behest or some sort of agreement, and there is just  
12    no evidence of that.

13            THE COURT: They have statements where Baker is  
14    talking to somebody about deceiving, and it is just two people  
15    talking and it still comes in, even though none of the others  
16    had anything to do with that.

17            MR. CLINE: Well, we have those --

18            THE COURT: But I let those in. I think it is  
19    admissible, frankly. I thought those were admissible. That  
20    is why I let it in. Once it is a co-conspirator statement, I  
21    am having trouble -- I mean, if it is not a co-conspirator  
22    statement I think you would be correct. But I think he has  
23    laid out the fact that it appears to be a co-conspirator  
24    statement, and so I think it comes in. Objection overruled.

25            (The following was had in the presence and hearing

1 of the jury.)

2 MR. JACKS: Your Honor, at this time we would call  
3 Joe Hummell.

4 (Whereupon, the oath was administered by the Court.)

5 JOE HUMMELL,

6 Testified on direct examination by Mr. Jacks as follows:

7 Q. Sir, would you tell us your name, please?

8 A. Joseph Hummel.

9 Q. Would you spell your last name for the record?

10 A. H-U-M-M-E-L.

11 Q. And how are you employed, Mr. Hummell?

12 A. I am the director of the investigative services for the  
13 National Football League.

14 Q. How long have you worked for the National Football  
15 League?

16 A. It will be two years this November.

17 Q. And where do you work? Where is your office?

18 A. 280 Park Avenue, New York; NFL headquarters.

19 Q. Prior to going to work for the National Football League,  
20 how were you employed?

21 A. I was a special agent with the Federal Bureau of  
22 Investigation.

23 Q. How long did you work for the FBI?

24 A. From 1983 to 2006.

25 Q. And where were your postings or where were you assigned

1 during your career with the FBI?

2 A. I did my first two years in the New Orleans office, '83  
3 to '86. From '86 to 99 I was assigned to the New York field  
4 office. From '99 to 2006 I was assigned to the LEGAT office  
5 in London, England, and I returned to New York and retired out  
6 of New York.

7 Q. And for those that might not know, LEGAT is short for  
8 what?

9 A. The legal attache's office.

10 Q. All right. So you represented -- You, among other  
11 agents, represented the FBI in London in the United Kingdom?

12 A. Yes, sir. That is correct.

13 Q. Before you went to London, you said you were stationed in  
14 New York?

15 A. Yes, sir. That is correct.

16 Q. And during that time period what type of work or what  
17 type of cases were you assigned to work on?

18 A. I was there, as I said, from '86 on. So initially I was  
19 assigned to the Foreign Counterintelligence Squad, and  
20 subsequently went on to the Joint Terrorism Task Force.

21 Q. I want to direct your attention to the summer of 1995.  
22 And during that particular summer, would that have been the  
23 time period that you were working counterterrorism cases?

24 A. Yes, sir. That is correct.

25 Q. And did you have an occasion in July of 1995 to come into

1 contact with an individual that you learned or knew to be by  
2 the name of Mousa Abu Marzook?

3 A. Yes, sir, I did.

4 Q. And where did you meet Mousa Abu Marzook?

5 A. On July 25th, 1995 I met Mr. Marzook at John F. Kennedy  
6 International Airport as he attempted to reenter the United  
7 States from the U.K.

8 Q. And had you been sent to Kennedy Airport with the purpose  
9 or the expectation of talking or meeting with Marzook?

10 A. Yes, sir, I had.

11 Q. Whoever notified you, did you know that he was going to  
12 be entering or attempting to enter the United States? Prior  
13 to your being notified to go to the airport, were you aware  
14 that he was going to be coming into the United States?

15 A. No, sir, I wasn't.

16 Q. Where within Kennedy Airport did you come into contact  
17 with Mousa Abu Marzook?

18 A. We met Mr. Marzook inside the Immigration Secondary Unit  
19 at JFK.

20 Q. And were there any other law enforcement personnel there  
21 that you met with?

22 A. Yes, sir, there were. Immigration officers were there,  
23 and I was accompanied to JFK by my partner from the New York  
24 field office.

25 Q. Another special agent?

1 A. He I was actually an Immigration officer assigned to the  
2 task force.

3 Q. That would have been at that time the Immigration and  
4 Naturalization Service?

5 A. That is correct.

6 Q. Did you have a conversation with Mousa Abu Marzook in  
7 Kennedy Airport?

8 A. Yes, sir, I did.

9 Q. And what was the focus of your questions that you were  
10 asking Mousa Abu Marzook?

11 A. Well, we had gone out to the airport to interview  
12 Mr. Marzook, first of all, to confirm that he was identical to  
13 the Marzook who had previously resided in the United States,  
14 and also to determine his activities in relation to the Hamas  
15 organization, his activities while he was out of the United  
16 States, his movements while he was outside the United States,  
17 and what his intentions were now that he was attempting to  
18 reenter the United States.

19 Q. Before you went to the airport, did you know who Mousa  
20 Abu Marzook was?

21 A. Yes, sir.

22 Q. And did you know about his affiliation with Hamas and the  
23 fact that he had been out of the country?

24 A. Yes, sir, I did.

25 Q. And in general, you said that you wanted to ask of him

1 where he had been while he was out of the country, who he had  
2 been in contact with?

3 A. Yes, sir.

4 Q. And what, among other things, what his plans were if he  
5 were allowed to reenter the United States. Is that correct?

6 A. That is correct.

7 Q. Was anybody with Mr. Marzook that was traveling with him?

8 A. Yes, sir. He was traveling with his wife and children.

9 Q. All right. And in response to your questions about where  
10 he had been, what did he tell you?

11 A. What Mr. Marzook explained was that in May he had been in  
12 Jordan, and in early May the Jordanian government informed  
13 Mr. Marzook that they were revoking his status and he had 30  
14 days to leave. Mr. Marzook explained that he left --

15 MR. CLINE: I apologize for interrupting, Your  
16 Honor. Can we have a continuing objection to this?

17 THE COURT: Yes, you may have that.

18 Q. (BY MR. JACKS) Go ahead.

19 A. Mr. Marzook explained beginning in June he departed  
20 Jordan and between June and when we encountered him on July  
21 25th he had been moving back and forth between the United Arab  
22 Emirates and Egypt.

23 Q. And did you inquire of him about where he had been  
24 staying in the United Arab Emirates and Egypt and who he had  
25 been staying with and how you might verify or confirm that?

1 A. Yes, sir, we did. We asked him for contact details for  
2 while he was in Jordan, and his explanation was he really  
3 couldn't explain it because the streets were difficult to  
4 identify and he stated that he had been -- The family had a  
5 residence behind an English school, and that is all the could  
6 information he could provide with respect to his time in  
7 Jordan.

8 As far as his time in the United Arab Emirates, he  
9 explained at the time he could be contacted through a friend  
10 Issa Mohammed Abdel Majid, and with respect to his time in  
11 Egypt he had no contact detail.

12 Q. Meaning that he didn't have any contact with anybody or  
13 he couldn't provide you any information about their names and  
14 phone numbers?

15 A. He was unable or unwilling to provide details.

16 Q. Did you ever ask him if he -- what kind of papers he I  
17 was bringing into the country?

18 A. Yes, sir. At the beginning of the interview we asked Mr.  
19 Marzook to produce all his travel documents or any telephone  
20 books, address books he had in his possession.

21 Q. Did he -- What did he indicate about whether or not he  
22 had any kind of address book or phonebook?

23 A. He indicated he did not.

24 Q. That particular question, to ask him if he had an address  
25 book or a phonebook or anything like that, how many times was

1 he asked that question?

2 A. Numerous times throughout the interview, because when we  
3 asked him about his intentions with respect to entering the  
4 United States he was also evasive, non-committal as to where  
5 he was going or to be staying, so we just continually asked  
6 him for an address book, some way we could verify what he was  
7 telling us.

8 Q. At some point in time did this conversation or interview  
9 with Mousa Abu Marzook come to an end?

10 A. Yes, sir.

11 Q. And with regard to him and his wife and children, where  
12 were they after this -- Where were they located after this  
13 first conversation or this conversation that you have related  
14 ended?

15 A. When we finished interviewing Mr. Marzook, he was allowed  
16 to return to his family in Secondary, and they were together  
17 in a room.

18 Q. All right. And is that a part of the airport that is  
19 controlled by Immigration or Customs, and it is the people in  
20 there that still have not technically entered the United  
21 States?

22 A. That is correct.

23 Q. All right. What about his luggage and the items that he  
24 was bringing with him? Were those -- Where were those located  
25 during this time?

1 A. Prior to the interview beginning, U.S. Immigration and  
2 Customs asked Mr. Marzook and the family for all their luggage  
3 so that it could be searched. That luggage was searched, and  
4 as I recall, that was set off in a corner of that room. That  
5 is the best of my recollection where that luggage was.

6 Q. When you say the room, you are talking about the room  
7 they were allowed to wait in?

8 A. Yes, sir. That is correct.

9 Q. All right. Did he bring or have -- Did Mr. Marzook have  
10 any briefcases or attache cases or cases similar to that?

11 A. At the conclusion of the interview, as I said, Mr.  
12 Marzook was allowed to rejoin his family. My partner at the  
13 time decided he had one more question to ask Mr. Marzook about  
14 the currency he was traveling with, and my partner entered the  
15 room and noticed that there were two small briefcases on the  
16 ground seated next to Mr. Marzook.

17 Q. And did you or your partner, either by asking Mr. Marzook  
18 or simply by inspecting, were you able to open and see the  
19 contents of those briefcases?

20 A. We spoke with Customs and Immigration and we determined  
21 they had not been searched in the initial search, and at that  
22 time Customs and Immigration opened them up.

23 Q. And what type of documents were in those briefcases?

24 A. They had financial records, college diplomas, birth  
25 certificates, I think --

1 Q. Any address book or phonebook?

2 A. No, sir.

3 Q. And after the search of the luggage and the search of the  
4 briefcases or attache cases, or however you want to describe  
5 them, after the interview of Mousa Abu Marzook, was any  
6 further decision made about other avenues to determine if  
7 Mr. Marzook or anybody with him was in fact carrying any  
8 further documents or papers?

9 A. Yes, sir. Once the briefcases were opened and we found  
10 those documents, we determined that Mr. Marzook had not been  
11 completely forthcoming during the interview when we asked him  
12 for those types of documents, so the decision was made to have  
13 all the family members searched by U.S. Immigration officers.

14 Q. And when you say searched, are you talking about where  
15 they would have to start removing articles of clothing if need  
16 be to find out what they might have on their person?

17 A. That is correct.

18 Q. And was that done with Mousa Abu Marzook?

19 A. Yes, sir.

20 Q. Was it also done with his wife Nadia Elashi?

21 A. Yes, sir, it was.

22 Q. And with regard to Nadia Elashi, who did that?

23 A. Two female Immigration officers conducted that search.

24 Q. And was that in another room?

25 A. Yes, sir, it was.

1 Q. And after they went in that room, was there anything that  
2 one of the Immigration officers brought out with her?

3 A. Yes, sir; a small telephone address book.

4 MR. JACKS: May I approach the witness, Your Honor?

5 THE COURT: Yes.

6 Q. (BY MR. JACKS) Mr. Hummel, let me show you what has been  
7 admitted as Government Exhibit Marzook Phonebook. And can you  
8 identify that?

9 A. Yes, sir.

10 Q. And is this the address book that the Immigration officer  
11 -- Was it Customs or Immigration?

12 A. It was Immigration, I believe.

13 Q. That they brought out of the room after searching Nadia  
14 Elashi?

15 A. Yes, sir.

16 Q. Does it appear to be in the same condition as you saw it  
17 on that day, July 25th, 1995?

18 A. Yes, sir.

19 Q. And did you retain it then and keep it for evidence  
20 purposes from that point forward?

21 A. Initially it was in Immigration custody and then turned  
22 over to the FBI; but yes, sir, we did.

23 Q. All right, sir.

24 MR. JACKS: I pass the witness.

25 THE COURT: Any cross examination? Mr. Cline?

CROSS EXAMINATION

By Mr. Cline:

Q. Good afternoon, sir.

A. Good afternoon, sir.

Q. When you went out to the airport that day to JFK in July of '95, did you know that you were going to arrest Mr. Marzook?

A. No, sir.

Q. So as far as you were concerned, it could be that you would arrest him, it could be -- You would certainly interview him and then you could let him go?

A. Yes, sir.

Q. Answer this next question only if you have personal knowledge of it. Did the government of Israel have any input into the decision to have you go and have this encounter with Mr. Marzook?

A. I won't answer that.

Q. I beg your pardon?

A. On your advice I have no personal knowledge.

Q. No personal knowledge of that. Very well.

Now, Mr. Marzook arrived on a British airways flight. Correct?

A. That is correct.

Q. And he had with him his wife. Right?

A. That is correct.

1 Q. And his wife was named Nadia Elashi? Did you learn that?

2 A. Yes. That is correct.

3 Q. Was she arrested as well?

4 A. No, sir.

5 Q. And in the course of your discussion with Mr. Marzook, he  
6 indicated that he was traveling under a valid United States  
7 Department of Justice Immigration and Naturalization Service  
8 reentry permit?

9 A. That is correct.

10 Q. And was that true?

11 A. That was true.

12 Q. He did have a valid reentry permit?

13 A. Yes, sir.

14 Q. He indicated that he filed U.S. tax returns. Is that  
15 right?

16 A. Yes, sir.

17 Q. And was that true?

18 A. Yes, sir.

19 Q. And in the course of your discussion with him, he  
20 provided you with a list of educational institutions that he  
21 had attended while residing in the U.S. Correct?

22 A. That is correct.

23 Q. And I am not going to go through the whole list with you,  
24 but there were a series starting in 1982 and running through  
25 1992. Correct?

1 A. That is what he told us, yes, sir.

2 Q. And did you check that out?

3 A. Yes, sir.

4 Q. And he had been at those institutions?

5 A. As I recall, some of those institutions were --

6 Q. Mail order?

7 A. Yes.

8 Q. Okay. Some were -- he was actually physically present  
9 and some were mail order?

10 A. I can't speak -- I don't recall, but I know some were  
11 mail order.

12 Q. All right. And then he gave you some biographical  
13 information--date of birth, when he arrived in the U.S., when  
14 he became a permanent resident of the U.S., those kinds of  
15 things. Right?

16 A. Yes, sir.

17 Q. All right.

18 MR. CLINE: Thank you.

19 THE COURT: Any other questions?

20 MS. HOLLANDER: No, sir.

21 MR. WESTFALL: No, Your Honor.

22 MR. DRATEL: No, Your Honor.

23 MS. CADEDDU: No, Your Honor.

24 THE COURT: Any redirect?

25 MR. JACKS: Just a couple of questions, Your Honor.

REDIRECT EXAMINATION

By Mr. Jacks:

Q. Mr. Hummel, when you say mail order college degree, do you mean like a diploma mill?

A. Yes. That is correct.

Q. Send them your money and they will send you a degree?

A. Yes. That is correct.

MR. JACKS: That is all?

MR. CLINE: Now, Your Honor, I have to ask a few follow-up questions.

THE COURT: Sure.

RECROSS EXAMINATION

By Mr. Cline:

Q. I don't want to insult anybody here, but Colorado State University, is that a real school?

A. Yes, sir.

Q. George Washington University in Washington, D.C., is that a real school?

A. Yes, sir.

Q. You wouldn't call that a diploma mill, would you?

A. No, sir.

Q. Columbia State University in Missouri, is that a diploma mill?

A. I don't remember that one.

Q. Okay. You are a football man. Right? Louisiana Tech

1 University, is that a diploma mill?

2 A. No, sir.

3 Q. It is a football power but it is not a diploma mill.

4 Right? You agree?

5 A. Yes, sir.

6 Q. All right.

7 MR. CLINE: Thank you.

8 THE COURT: Anything else?

9 MR. JACKS: No, Your Honor.

10 THE COURT: Mr. Hummel, you may step down. You are  
11 free to go. Thank you.

12 Are you ready for Agent Miranda?

13 MS. HOLLANDER: Your Honor, may I approach just for  
14 a scheduling issue?

15 THE COURT: Yes.

16 And Agent Miranda, you are under that oath that was  
17 administered before the break.

18 (The following was had outside the hearing of the  
19 jury.)

20 MS. HOLLANDER: Two things. One, before I start, I  
21 would like three minutes to go to the restroom.

22 THE COURT: We haven't been in here long enough for  
23 a break.

24 MS. HOLLANDER: The other thing is we have a few  
25 issues that need to be resolved and maybe -- I don't know

1       whether -- We have to deal with the one just before lunch, and  
2       then there were a couple of other issues.

3               THE COURT: Did that not get resolved?

4               MS. HOLLANDER: Yes and no. We figured out the  
5       problem, and Mr. Jacks can correct me if I am wrong, but I  
6       think that what happened is that the Government -- Mr. Jacks  
7       intended for a document to be redacted, and then -- Mr. Jacks,  
8       you should listen to this because I want to make sure I get  
9       this right. I believe that Mr. Jacks thought that the  
10      document had been redacted, but the document that was actually  
11      introduced and is on the Court's website and that we got is a  
12      complete document, so he thought one thing and I thought the  
13      other. And that is what happened.

14              THE COURT: And I suspected that is what happened.  
15      Just from what everybody was saying, you intended one thing  
16      but something else happened.

17              MS. HOLLANDER: Something else happened, so we had  
18      no way of knowing that. And that is why I was confused  
19      yesterday. But we would like under -- He wants to replace it  
20      with what he thought it was supposed to be. And, you know,  
21      these things happen, so if he wants to replace the admitted  
22      document, the much smaller one, but that leaves me in a  
23      different situation, and under Rule 106 -- This was a very  
24      long conversation, primarily family chitchat with all these  
25      people talking, and a few pages of them is what the Government

1 introduced.

2 I would like to introduce and have Agent Miranda read  
3 just a couple of pages of the family conversation, because I  
4 think in fairness the jury needs to see that that is what this  
5 was, was a family talking. It is the grandmother, the kids.  
6 And they are real short, because they are real short questions  
7 and real short answers, and most of the 27 pages is actually  
8 the family.

9 Now, I am content to -- All I was going to ask him to do  
10 anyway was to just read a couple of pages to give the jury the  
11 flavor of what the whole thing was, and that is what I would  
12 like to do.

13 MR. JACKS: Judge, it was a mistake, and in terms of  
14 what -- Each one of the Government's exhibits is an audio file  
15 and a paper transcript of the conversation. This transcript  
16 of this conversation was the wrong one. There is a redacted  
17 transcript. And I am not going to try to explain how the CD  
18 that they ended up, with the latest version had the full  
19 27-page page transcript instead of the 7- or 9-page transcript  
20 that was supposed to be in the file.

21 If this case dealt with English language recordings, the  
22 law is clear that the recording is the actual evidence and the  
23 transcript is an aid. Well, when the conversation is in a  
24 foreign language which none of the jurors presumably speak,  
25 then that attaches more significance to the transcript. But

1 notwithstanding that, the only thing in evidence as far as an  
2 audio file is the segments, the redacted portion that we  
3 played, and so the transcript has to stand on the audio file  
4 that is in evidence. And that is why the fact that this full  
5 transcript has been mistakenly --

6 And I don't think posting it on the Court's website  
7 attaches any significance to it. The jury hasn't seen it yet.  
8 So it is our intention to replace it with the redacted  
9 transcript, because that is what is supposed to be in that  
10 file. That is what we propose to do with regard to correcting  
11 the record.

12 Now, this other part that Ms. Hollander wants to have  
13 Agent Miranda read, they are going to have to read it because  
14 there is no audio file. But she told me -- she showed me, and  
15 it is about three pages, and it is pages of the kids talking  
16 to grandma and saying, "I miss you," and "You are so pretty,"  
17 and it is irrelevant and that is why we redacted it in the  
18 first place.

19 As far as 106 explaining or rebutting or clarifying what  
20 is said in the part already in evidence, this does not do  
21 that. The only reason that this part is put in there is to  
22 curry favor with the jury. It is sympathy to show these  
23 children, they have grandkids, grandmothers, and that is the  
24 only reason.

25 And if she wants to have Agent Miranda say, "There was

1 more to this conversation, wasn't there?"

2 "Sure, there was 15 minutes of children talking," then  
3 she can bring it out. But to have him actually read the back  
4 and forth between the grandkids and the grandmother getting on  
5 the phone and then somebody else gets on the phone, that is  
6 irrelevant, and there is no legal reason to do that but for to  
7 show this jury that there is grandkids and grandmothers  
8 involved in this case, and that is not an issue.

9 MS. DUNCAN: Your Honor, It is a very brief portion,  
10 just three pages, and it is relevant. The Government is  
11 taking things out of context and suggesting that Mr. Abu Baker  
12 and his brother are calling for these very specific purposes,  
13 and that is simply not true. All the phone calls they have  
14 introduced include these conversations about family, and so  
15 all that we are seeking to do is to put that into context.

16 And in fairness, the jury needs to understand that these  
17 are family phone calls, and that the snippets the Government  
18 has chosen to play are just brief portions over what is  
19 overall a family phone call.

20 We just want the jury to -- We think the jury is entitled  
21 to know under 106 what the nature of these phone calls were,  
22 and that is what these three pages will do. So it is  
23 relevant. It is not to drag these kids in, but it is to put  
24 the Government's own evidence into context.

25 MS. HOLLANDER: And the Government has the audio

1 file of the whole thing and so do we. That is not -- I am not  
2 sure the whole audio file -- I mean, nothing -- It is true  
3 nothing has gone to the jury, but what was put on the website  
4 is what was supposedly introduced.

5 THE COURT: What were the other issues you wanted to  
6 take up?

7 MS. HOLLANDER: You wanted to think about Nihad Awad  
8 and the photograph with him and Bush, and although it is not  
9 how I originally intended my cross, I would be willing--and  
10 this is what I wanted to say at the last thing but you didn't  
11 let me--I was willing to just show him the picture and just  
12 show him or ask him, "Can you identify Nihad Awad that you  
13 talked about," and if he says no, I wouldn't ask anything  
14 else. If he says yes, then I would show him the picture.

15 THE COURT: Then any other issues?

16 MS. HOLLANDER: I wouldn't ask him anything else.

17 THE COURT: Any other issues?

18 MS. HOLLANDER: I don't have any other, but there is  
19 one other that the Government raised and that is a video.

20 MR. JACKS: Which I still don't --

21 MS. HOLLANDER: This is a video that they have had  
22 for six years and it has been on our list.

23 THE COURT: Right. What is it about?

24 MS. HOLLANDER: Agent Miranda testified that at  
25 InfoCom they had this movie set and had a cut-out with little

1 cut-out children, and this is an infomercial. We have cut it  
2 down to just a couple of minutes so he can identify the  
3 cut-out and show --

4 THE COURT: Do I have that? Is that on one of the  
5 disks?

6 MS. DUNCAN: I am not sure that the videos are on  
7 the disk. I can bring it up on my computer.

8 THE COURT: But you are objecting to that?

9 MR. JACKS: Yes, sir.

10 MS. HOLLANDER: The point is, Your Honor, our  
11 concern is that, again, the way it is now, it leaves a false  
12 impression with the jury that they really didn't go and do  
13 this charity, which the Governments keep calling it a  
14 purported charity that they --

15 THE COURT: What is the video about?

16 MS. HOLLANDER: The video, what he said was cut-outs  
17 of children --

18 THE COURT: I remember that.

19 MS. HOLLANDER: The video shows Shukri with the  
20 cut-out of the children. We can do it without sound. And  
21 then it shows some real kids. And, I mean, just pictures,  
22 nothing weird, no Israelis, no shooting, none of that. And it  
23 shows Holy Land people with Holy Land T-shirts bringing food,  
24 food packages, Holy Land projects --

25 THE COURT: To the kids or just carrying them?

1 MS. HOLLANDER: Carrying them and some women taking  
2 them out. It is really short. I mean, it is three minutes.  
3 But I think they raised that, and I don't want the jury just  
4 left with the impression that there weren't any real people in  
5 Holy Land, and that is the impression that they have now is  
6 they had cut-outs of children and there weren't real people.

7 And, you know, I am sure he can identify what he saw  
8 because he did the search at InfoCom, and then he can identify  
9 the Holy Land logo on people just --

10 MR. JACKS: Your Honor, we tend to ramble up here,  
11 but I want to get back to, she wants to ask him, "Can you  
12 recognize Nihad Awad in this picture?" I object to that, to  
13 the suggesting of the name of the person.

14 MS. HOLLANDER: No, no, no. I was going to ask if  
15 he could identify, before I show him the picture. I am not  
16 going to do it the way you guys do it.

17 MR. JACKS: And this video, I haven't seen it, and  
18 if the linchpin to bring it in is Agent Miranda is testifying  
19 about this backdrop that he saw at the InfoCom offices, that  
20 is, you know, I just don't see -- It is not in dispute. If  
21 they are going to try to prove -- They are trying to prove it  
22 exists, so we have put in testimony that it exists, so the  
23 part about with no sound Shukri Abu Baker standing I guess  
24 standing in front of a false backdrop, you know, then that  
25 would be the end of it.

1           But I don't think Agent Miranda can say, "Yes, I can tell  
2           that this video was shot in that location." There is no way  
3           that he is going to be able to say that.

4           THE COURT: Where did this come from?

5           MS. HOLLANDER: It came from the Government. This  
6           is some of their videos.

7           THE COURT: One that the Government seized?

8           MS. HOLLANDER: Yes, sir.

9           MR. JACKS: And there were thousands of those, and  
10          there may be multiple copies at Blockbuster or somewhere. But  
11          to think we have these memorized somewhere and can get them  
12          quickly, that is just not the case.

13          THE COURT: Well, I am assuming you got it when they  
14          listed it as an a exhibit.

15          MR. JACKS: They list it and put a number by it,  
16          which is a numbering system the FBI used, but they don't give  
17          a copy back.

18          MS. HOLLANDER: They gave us a copy, Your Honor.  
19          They may have to go and look at it just like we have to look  
20          at their exhibits.

21          THE COURT: You are raising a foundational problem  
22          you have been raising all along with all of these, like some  
23          of the photos, because I thought the photos themselves along  
24          with the agent testifying she recognized Holy Land people in  
25          there was sufficient.

1 MS. HOLLANDER: I think this is really the same  
2 thing.

3 THE COURT: It is hard to say without looking at it.  
4 I had the pictures and looked at them. I think I still need  
5 to look at the video.

6 MS. DUNCAN: It is less than three minutes tops.

7 THE COURT: I can take a look at it at the break.  
8 How much longer do you think you have on your cross?

9 MS. HOLLANDER: I just barely started. I am really  
10 bad at this but let me say --

11 THE COURT: I am going to start writing down and  
12 holding you to it.

13 MS. HOLLANDER: No, that is what I am afraid of. An  
14 hour and a half. I would say an hour.

15 THE COURT: We will take a break, then. So if you  
16 will get me that, I will take a look.

17 MR. CLINE: Before you take the break, can I ask  
18 that one question I had pending over lunch?

19 THE COURT: Yes. I will let you do that. Why don't  
20 you start off at that.

21 MS. HOLLANDER: And then can we take our break?

22 THE COURT: Well, we have been over here a little  
23 longer than we thought. You guys are just long-winded. It is  
24 time for a break. We have been in here about an hour and 45  
25 minutes.

1 MS. HOLLANDER: And then we can resolve this and get  
2 through my cross.

3 THE COURT: Okay.

4 (The following was had in the presence and hearing  
5 of the jury.)

6 THE COURT: Sorry for that delay.

7 Mr. Cline?

8 Q. (BY MR. CLINE) Agent Miranda, I think we had agreed that  
9 over lunch you were going to look at the Elbarasse documents  
10 in evidence and see if any of them had that little  
11 classification number on them. Did you have a chance to do  
12 that?

13 A. Yes. There was one document I wanted to double check and  
14 there was nothing on it.

15 Q. Okay. So after checking, is it correct that none of the  
16 Elbarasse documents in evidence had that classification number  
17 on them?

18 A. Correct.

19 Q. All right. Thank you for taking the time to do that.

20 A. You are welcome, sir.

21 THE COURT: Members of the jury, let's take a break.  
22 We have been in here about an hour and 45 minutes, and I need  
23 to resolve an issue. So see you back about ten till.

24 (Whereupon, the jury left the courtroom.)

25 THE COURT: All right. We are in recess.

1 (Brief recess.)

2 THE COURT: Ms. Hollander, I have looked at the  
3 video, and that doesn't have the information in it like those  
4 photographs that I let you introduce previously through Agent  
5 Burns.

6 MS. HOLLANDER: You didn't see the Holy Land --

7 THE COURT: I saw that, but it doesn't say anything  
8 about where it is. The others had Kosovo Relief Fund, other  
9 identifying information, and Agent Burns was able to identify  
10 that and was aware they had been over there. This doesn't  
11 have anything like that.

12 MS. HOLLANDER: Your Honor, the witness is here  
13 while we are talking about it.

14 THE COURT: Well, so I am going to sustain the  
15 objection to that. I think you need to lay a predicate. And  
16 if you can lay a predicate, then of course like any other  
17 picture, it may be admissible.

18 MS. HOLLANDER: I thought I would have to lay a  
19 predicate.

20 THE COURT: So I was letting you do that the last  
21 time through the agent because of how much the pictures show.  
22 This just doesn't have that kind of information, so I will  
23 sustain the objection this time pending laying a predicate.

24 MS. HOLLANDER: But I can try to lay a predicate?

25 THE COURT: Yes. With respect to those other

1       photos, if you can lay a predicate those come in.

2               And with respect to the third issue?

3               MS. HOLLANDER: It was another photo. Oh, the  
4 transcript.

5               MR. JACKS: The transcript --

6               THE COURT: Yes. There was still one other and that  
7 was the issue, Mr. Cline, the photograph, George Bush and  
8 Nihad Awad. I am going to sustain the objection to that, to  
9 going into CAIR as just not relevant at this time. And if you  
10 can -- There is a foundational problem as well in terms of all  
11 we have is the picture. Even if you get the agent to identify  
12 the individual with George Bush, that is still all we know.

13              MS. HOLLANDER: At some point, Your Honor, I would  
14 like to make a proffer.

15              THE COURT: And I will let you. And I will revisit  
16 that issue in terms of if you can lay a predicate in terms of  
17 just the admissibility of that issue. That is the bigger  
18 issue that I am wrestling with is just the admissibility of  
19 going into that. I am thinking, and I want to look at it a  
20 little bit more, but it is really more along the lines of  
21 trying to -- You are offering it for impeachment, and it is  
22 impeachment on what I see as a collateral issue.

23              MR. CLINE: Here is just a question for Your Honor,  
24 and you may not be prepared to answer this question, but if  
25 the issue were foundation, what we would probably do is

1 subpoena somebody from the White House to come in and say,  
2 "This is our thing. This picture was taken on such and such a  
3 date." If the issue is relevance we don't want to put  
4 somebody out.

5 THE COURT: Right. So don't go there yet, because I  
6 am still wrestling with that bigger issue. If you will  
7 remember from this morning, I kept asking Mr. Jacks let's  
8 forget foundational for now. As I understand it, this came  
9 from an official website. So the foundational may not be as  
10 difficult as having to go to that extent.

11 MR. CLINE: That is kind of what I figured.

12 THE COURT: But I have just I think a question on  
13 the broader issue of what I see as perhaps impeachment on a  
14 collateral issue because of the statements that I was making  
15 earlier this morning, that it ultimately, other than  
16 impeachment on a collateral issue it doesn't go to any real  
17 issue before the jury. And so that is where I am looking. So  
18 if you want to do some looking on that, you can be doing it as  
19 well.

20 MR. CLINE: All right. That is fine. And maybe  
21 sometime before the end of the week we can take five minutes  
22 and just bring this issue to closure one way or the other.

23 THE COURT: If you remind me. And I will continue  
24 to be looking at that. So that is out for now. I sustained  
25 that objection.

1           And the transcript, Ms. Duncan?

2           MS. DUNCAN: Your Honor, just to clarify the record,  
3 for the video, to make it clear, we are not offering it in the  
4 same way to show what Holy Land did in Oklahoma City or  
5 Kosovo. We are offering it as an example of the infomercials  
6 that were made.

7           THE COURT: That is the problem. We don't know any  
8 of that. If you can lay a foundation and predicate that is  
9 one thing, but the video doesn't do that.

10          MS. DUNCAN: I was clarifying for that when she  
11 tries to do that.

12          THE COURT: I think that has come out here, but I  
13 can't tell from the video. From the pictures we could tell  
14 what it was, and the agent could. You don't have it from the  
15 video, and I don't think you are going to get that from the  
16 agent either, so you will have to find another source for  
17 predicate, likely. But we will find out.

18          And then on the transcript, I think in light of the  
19 mistake and we can -- Mr. Jacks, you agreed that they could  
20 ask the rest of the conversation, how many minutes between  
21 family members, I will let you read those two or three pages  
22 you were talking about, in light of this mistake that you  
23 thought the entire exhibit was in evidence. So I will let you  
24 have that.

25          Ready for the jury?

1 MS. HOLLANDER: Yes, sir.

2 THE COURT: Bring the jury in.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: Ms. Hollander?

5 MS. HOLLANDER: Thank you, Your Honor.

6 Q. (BY MS. HOLLANDER) Now it is afternoon, Agent Miranda.  
7 And it is the story of my life in this case to stop my crosses  
8 and start them. But just to remind us where we were, we were  
9 about to read a portion of what was introduced as Baker  
10 Wiretap No. 25. It was one of the calls between Shukri and  
11 his brother. Correct?

12 A. Yes.

13 Q. Okay. And just to remind us where we are, this was a  
14 call with --

15 A. I am sorry, ma'am. I am not getting a -- I am not seeing  
16 anything on my screen. I am willing to look at a copy of  
17 that, if you have one.

18 THE COURT: He is checking that. Give him a second.  
19 You will have to work with a copy, perhaps.

20 MS. HOLLANDER: I only have one copy. We will have  
21 it here in a second, Your Honor. Here is what we are going to  
22 do. We will be a little ingenious. What I am going to give  
23 you is the front page of the call with all the people's names  
24 on it, and then I am going to -- I guess I should give you --  
25 Well, I don't know how to do this. Are you thinking he

1 is going to have the computer? Is that what you are thinking?  
2 If he has the paper copy then the jury can't see it.

3 Q. (BY MS. HOLLANDER) I am going to give you the computer.  
4 That is what I am going to do. This is just for a couple of  
5 pages, and we just have to work it out.

6 MS. HOLLANDER: Is that okay, Your Honor?

7 THE COURT: Sure, that is fine.

8 MS. HOLLANDER: Can I approach?

9 THE COURT: Yes.

10 Q. (BY MS. HOLLANDER) What I am going to ask you to do is I  
11 am going to give you this page and just say who is talking.

12 MS. HOLLANDER: Thank you, Your Honor. Twenty-first  
13 century courtroom.

14 Q. (BY MS. HOLLANDER) What I would like you to do is read  
15 the first couple of pages, and I will put them on the elmo so  
16 the jury can follow along. And just say who is speaking.  
17 Okay?

18 A. All right.

19 Q. And you can start with who is speaking and then, "Hello,  
20 hello."

21 A. Yes, ma'am. This is going to be Nida Abu Baker, "Hello,  
22 hello."

23 Jamal Abu Baker says, "Hello. Peace be with you."

24 Nida says, "And with you."

25 Jamal says, "Who are you?"

1 Nida says, "NidaJamal says, "How are you, daughter?"

2 Nida says, "Thanks be to God."

3 Jamal says, "Do you know who I am?"

4 Nida says, "Er."

5 Jamal says, "Who am I?"

6 Wijdan Abu Baker says, "Uncle JamalJamal says, "You got  
7 it very good. How are you doing? Are you happy?"

8 Nida says, "Thanks be to God."

9 Jamal says, "Hello."

10 Wijdan says, "Yes. Your voice -- your voice is  
11 repeating."

12 Nida says, "what?"

13 Jamal says, "Should I let you speak with a beautiful one  
14 like you?"

15 Nida says, "Yes."

16 Jamal says, "Come over here. Talk with one of my girls."

17 Asthma says, "Hello."

18 Nida says, "Hello."

19 Asthma says, "Peace be with you."

20 Nida says, "And with you."

21 Asthma says, "What is your name?"

22 Nida says, "NidaAsthma says, "What grade are you inNida  
23 says, "What?"

24 Asthma says, "What grade are you inAnd Nida says, "Er."

25 Asthma says, "How old are you?"

1 Nida says, "five years."

2 Asthma says, "Yes, you have not gone to school yet?"

3 Nida says, "I go to" --

4 Asthma says, "Listen."

5 Nida says, "What?"

6 Asthma says, "you are as old as my sister Isra the little  
7 one."

8 Asthma says, "Listen, is Uncle Shukri there?"

9 Nida says, "What?"

10 Asthma says, "Is your dad there? Is your dad there?"

11 Nida says, "Yes."

12 Asthma says, "Let me talk with him."

13 Nida says, "She wants to talk to Dad."

14 Q. Okay. Thank you.

15 Now, Agent Miranda although I am not asking you to read  
16 the rest of it, you are familiar with this call, aren't you.

17 A. Portions of it better than others, but yes.

18 Q. But there was a lot more family talk like that in the  
19 call, wasn't there?

20 A. Yes.

21 Q. And the grandparents talked to the kids, and they went  
22 back and forth kind of like that.

23 A. Yes.

24 Q. In between the parts that you read. Correct?

25 A. Yes.

1 Q. Now, let me direct your attention back to part of what  
2 you read, or I should say of what scrolled on your direct  
3 examination, and if I can direct your attention, I believe it  
4 is page 13.

5 MS. HOLLANDER: Mr. Jacks, I believe I have this  
6 correct.

7 Q. (BY MS. HOLLANDER) I know you can't see it, but I am  
8 going to tell you what it is. This was a conversation about  
9 where they were talking about credit. And do you recall that?

10 A. Is this about the phone system?

11 Q. The phone system?

12 A. Yes.

13 Q. You recall that?

14 A. Yes.

15 Q. And they talked about making telephone calls, what they  
16 cost. Correct?

17 A. Yes.

18 Q. And they talked about making calls, what they cost to go  
19 to Brazil and what they cost to go to Jordan. Do you remember  
20 that?

21 A. Yes.

22 Q. Now, they have family in both those places, don't they?  
23 In Brazil -- They are from Brazil. Correct?

24 A. I don't know what the family situation currently is in  
25 Brazil.

1 Q. But that is where they were from?

2 A. Originally, yes.

3 Q. And they have family in Jordan. Correct?

4 A. Yes.

5 Q. And they are talking about setting up a Net2 phone  
6 account. Correct?

7 A. Yes.

8 Q. And then at one point Jamal says, "I'm talking with you  
9 free. The free one doesn't work with me every time." Do you  
10 remember that?

11 A. Yes.

12 Q. And they are talking about the programs where you can  
13 speak over the computer internet, talk over the computer.  
14 Correct?

15 A. Yes.

16 Q. That is what this Net2 is.

17 A. Yes.

18 Q. And it is like Skype. Are you familiar with Skype?

19 A. Yes.

20 Q. Or Vonage?

21 A. Yes.

22 Q. Any of those?

23 A. Yes.

24 Q. Okay. And he tells them what his name is on the Net2  
25 account. Right? GIMI. Right?

1 A. Yes.

2 Q. Now, if you look back at InfoCom Search No. 35, the  
3 security document, and again you are not going to be able to  
4 see it but I will read it, and the jury can see it, you recall  
5 that it talks about telephonic communications?

6 A. Yes.

7 Q. If you need to see the actual document, let me know.  
8 Otherwise we will do it this way. And it says in there No. 5.  
9 And instead of having you read it, I will read it. It says,  
10 "Avoiding calls during unusual times such as at night or at  
11 dawn." Correct?

12 A. Yes.

13 Q. And you are not sure whether this call was in the middle  
14 of the night or late at night or in the middle of the day.  
15 Correct?

16 A. I don't recall, ma'am.

17 Q. Okay. Would it refresh your recollection if you  
18 previously thought that it was 11:00 at night?

19 A. Yeah. I don't know that I said it was 11:00 or that it  
20 was --

21 Q. Very late at night?

22 A. I think I said I am not sure if it is on a 24-hour clock.  
23 So it could be 11:00 a.m. or 11:00 p.m. I am not sure.

24 Q. You previously testified that the call was very late and  
25 your answer was that it sure was. Is it possible that you

1       remembered that earlier?

2       A.     How long was the call?  Do we know the duration?

3       Q.     The duration of the call?

4       A.     Was it one lasting over 20 minutes?

5       Q.     Yes.

6       A.     It was probably the late one.

7       Q.     And the security document says to avoid calls late at  
8       night.  Correct?  That is what the document says--"avoiding  
9       calls during unusual times such as late at night or at dawn."

10      A.     Correct.

11      Q.     Correct.  Okay.  Now, you also testified about Shukri and  
12      Akram's trip to Saudi Arabia.  Correct?

13      A.     Yes.

14      Q.     And you said on that trip that Shukri applied for a visa  
15      and he listed InfoCom as the company name.  Correct?

16      A.     Yes.

17      Q.     Okay.  And I am going to put that up again for the jury,  
18      and I will let -- Now, you will have to let me know if you  
19      need help remembering this document.  But he applied to the  
20      embassy of Saudi Arabia for his visa.  Correct?

21      A.     Yes.

22      Q.     Now, he put in his correct home address, didn't he?  Do  
23      you need to see it?

24      A.     No, I can actually see it.  I think that is the correct  
25      address.

1 Q. And he put in the correct address for InfoCom. Correct?

2 A. He did.

3 Q. But in the middle of the page where it asks for a  
4 business address and telephone number, he left that blank.

5 Correct?

6 A. Yes.

7 Q. Okay. And he paid for it with a check, didn't he? Do  
8 you see where it shows circles -- Do you remember that it is  
9 checked "check"?

10 A. I can see that. That is what it appears to say.

11 Q. And he used his correct passport number. Correct?

12 A. Yes.

13 Q. And of course his name was correct also. So everything  
14 matched up from his identification. Correct? His name, his  
15 home address, his passport number. Correct?

16 A. That part is correct, yes.

17 Q. Now, let's look back at the security document once again,  
18 page 20 of the security document. And I don't know if you can  
19 see that, but it says there that one of the things not to do,  
20 and I am going to read it, No. 14, "Not using credit cards or  
21 tourist checks during travel. Cash money is the most suitable  
22 during travel." Do you see that?

23 A. I do.

24 Q. And No. 17 says that the reservation should be in a name  
25 that doesn't reveal the manager's known identity. Correct?

1 First and second name.

2 A. Yes.

3 Q. And one of the other things that you pointed out was that  
4 they -- They met with someone from a bank there. Correct? Or  
5 you thought that it was someone from a bank.

6 A. There was a letter indicating they wanted to see --

7 Q. They wanted to see someone?

8 A. I don't know if they met that person or not.

9 Q. Now, I also want to ask you a few questions about the  
10 Holy Land overseas speaker list, and that was HLF Search  
11 No. 87 and your big board. Mousa Abu Marzook's name isn't on  
12 that list, is it?

13 A. No, ma'am.

14 Q. And you have also talked about, while we are on the  
15 subject of Mr. Marzook, that is another one of those names  
16 where the last name has an Abu. It is Abu Marzook as part of  
17 his last name. Correct?

18 A. Yes, ma'am.

19 Q. Okay. In the phonebook, and I may have to show you this  
20 if you can't see it, he has a phone number for Abu Ammar.  
21 Right? Do you know who that is?

22 A. That is an Abu name used by or was used by Yasser Arafat.

23 Q. Right. He was the head of Fatah. Correct?

24 A. Yes, ma'am.

25 Q. We also refer to him as at one time he was the president

1 of the Palestinian Authority. Correct?

2 A. Right.

3 Q. A rival of Hamas. Correct?

4 A. Right.

5 Q. But his numbers are on page 38. And then on page 40 we  
6 see his name again. Correct?

7 A. Yes.

8 Q. And again on page 42. And actually the numbers on page  
9 42 are the same as the numbers on page 40. Correct?

10 A. I have not made that comparison.

11 Q. Well, there is one at least that is actually, if you look  
12 at it -- You didn't compare the numbers for Abu Ammar for  
13 Yasser Arafat?

14 A. Compare them to each other?

15 Q. Right.

16 A. No.

17 Q. You didn't determine whether these all applied to the  
18 same person?

19 A. No, I didn't compare the telephones of Abu Ammar to Abu  
20 Ammar.

21 Q. If we compare them, we see that at least 824670 are the  
22 same numbers. Right? Those are the same number, are they  
23 not?

24 A. I will take your word for it.

25 Q. You can't see them, but those are the numbers on 42 and

1       40, so those two numbers compare.

2               And he also had in his phonebook somebody whose name is  
3       Abu Hussein, Abu Mazin's office director. Now, who is that?

4       A.     I have a guess. Do you want me to take a guess?

5       Q.     Sure.

6       A.     I am thinking that is the individual who took over for  
7       Yasser Arafat as the president of the PNA of Arafat died, but  
8       that is a guess.

9       Q.     Abu Mazin?

10      A.     Yes.

11      Q.     Did you check that phone number?

12      A.     No.

13      Q.     One of the other phone numbers was somebody named Riyadh  
14      al-Zanoun. Correct?

15      A.     Yes.

16      Q.     And you know who that is. That is the Palestinian  
17      Minister of Health. Correct?

18      A.     No, I didn't know that.

19      Q.     Well, did you check that phone number?

20      A.     No, I did not.

21      Q.     We previously have seen in this case Defendants' Exhibit  
22      No. 136. I actually have two copies of that.

23               MS. HOLLANDER: Can I approach, Your Honor?

24               THE COURT: Yes.

25      Q.     (BY MS. HOLLANDER) And that is the same name, isn't it?

1 A. It appears to be.

2 Q. And he signed that as the Minister of Health. Correct?

3 A. Yes.

4 Q. I don't know that we have actually -- I think we have  
5 already discussed that letter, but I was just trying to remind  
6 us of who he is.

7 And Riyadh Mansour is also on that page. Correct? And he  
8 is the current PA, not Hamas, representative to the United  
9 Nations. Correct?

10 A. I don't know that.

11 Q. You didn't check that?

12 A. When you say check it --

13 Q. You didn't check to see who he was?

14 A. No. I checked to see whether or not they were on the HLF  
15 speakers list.

16 Q. Now, let's stick here with talking about Marzook for a  
17 little bit. You created a document, a demonstrative called  
18 the "Marzook Orders Security for OLF," and I could put it up  
19 there for you. I will put it on the screen, but since there  
20 is a demonstrative I will get it so you can see it. Tell me  
21 if you can't see it. Of course now I can't see you. I am  
22 trying to be creative here.

23 Now, the point of creating a demonstrative is just to  
24 pull together actual documents that are in evidence. Correct?

25 A. I guess, yes.

1 Q. And the demonstrative is supposed to accurately portray  
2 what the underlying documents say. Correct?

3 A. Yes.

4 Q. Now, this demonstrative says -- I want to talk about it  
5 in kind of one word at a time. First it says "Marzook orders  
6 security." Correct?

7 A. Yes.

8 Q. So the first thing it says is Marzook, and you base that  
9 on Elbarasse Search No. 15. Correct?

10 A. Yes.

11 Q. Since we have that one up there, I am going to take this  
12 down for a minute. Elbarasse Search No. 15 wasn't signed by  
13 Marzook, was it?

14 A. No, it was not signed by him. I think I pointed that  
15 out.

16 Q. It was actually signed -- It was signed, though, wasn't  
17 it?

18 A. It was a signature.

19 Q. Right. But that is an unknown signature. Correct?

20 A. Unknown to me.

21 Q. Unknown to you. Okay. So we are going to take this and  
22 we are going to change it here. And in case you can't read  
23 it, what I have written, I crossed out "Marzook" and have  
24 written "unknown person" there. The next thing it says is  
25 that -- Now, this unknown person ordered security for OLF.

1 That is what it said up there is it ordered security.

2 Correct?

3 A. Yes.

4 Q. And for that you actually also looked at that same  
5 document on page 2. And the document says, "Brother Izzat  
6 Mansour is requested to visit the office of the Fund to take  
7 the necessary measures in regards to maintaining security."  
8 Do you recall that is what the document says?

9 A. Yes, ma'am.

10 Q. So I am going to change this from "orders" to "requests,"  
11 because that is what the document says, doesn't it?

12 A. Yes, ma'am.

13 Q. Now, you didn't present any evidence that Izzat Mansour  
14 did actually visit the Holy Land office at that time, did you?

15 A. No, ma'am.

16 Q. And your demonstrative also makes reference to a check,  
17 November 1990 check. Correct?

18 A. Yes, ma'am.

19 Q. And that is a check that does have Marzook's signature  
20 that you can identify. Correct?

21 A. Correct.

22 Q. To Izzat Mansour. Correct?

23 A. Correct.

24 Q. And that was from the big document Marzook Bank Account.  
25 Correct?

1 A. Yes.

2 Q. And the check is dated November 9th, 1990. Right?

3 A. Right.

4 Q. But the request from this unknown person to Mansour was  
5 made in February of 1991. Correct?

6 A. Right.

7 Q. And there is nothing written on the memo line of this  
8 check, is there?

9 A. No.

10 Q. And you didn't present any evidence showing what this  
11 check is for, did you?

12 A. Right.

13 Q. So I am going to cross the check out and I am going to  
14 mark this as Defendants' Demonstrative No. 2.

15 MS. HOLLANDER: Your Honor, I move it into evidence  
16 at this time as a demonstrative.

17 THE COURT: Defendants' Demonstrative No. 2. Mr.  
18 Jacks?

19 MR. JACKS: We object, Your Honor. It is just -- It  
20 is her handwriting and we object.

21 THE COURT: Well, it was done here in the courtroom.  
22 I think that is permissible. That is overruled, and  
23 Defendants' Demonstrative No. 2 is admitted.

24 MS. HOLLANDER: Thank you, Your Honor. I am going  
25 to take this down now since I am too short to see around it.

1 Q. (BY MS. HOLLANDER) Another thing you discussed on direct  
2 was a video, and it was a video -- It was HLF Search No. 126,  
3 and it was a video you played, the Government played a brief  
4 portion showing Yousef Qaradawi speaking. Do you remember  
5 that?

6 A. Yes.

7 Q. You are familiar with that?

8 A. Yes.

9 Q. But actually that wasn't a video that Holy Land made, was  
10 it?

11 A. They made?

12 Q. That Holy Land produced.

13 A. I don't know who produced it. What is the search  
14 warrant? What is the exhibit number, ma'am?

15 Q. Well, in fact, it is a video from a MAYA conference in  
16 1993. Correct?

17 A. I would have to take a look at the video, please.

18 MS. HOLLANDER: Can I approach, Your Honor?

19 THE COURT: Yes.

20 THE WITNESS: What was your question now, ma'am?

21 Q. (BY MS. HOLLANDER) So now that you have looked at this  
22 tape, let me ask you a few questions about it. Okay?

23 A. Yes.

24 MR. JACKS: Judge --

25 MS. HOLLANDER: I am not moving this into evidence.

1 MR. JACKS: All right.

2 Q. (BY MS. HOLLANDER) When Holy Land was searched, a large  
3 number of videos were seized. Correct?

4 A. Yes.

5 Q. Okay. And the Government either kept the original labels  
6 on them so that you would know what they were or somehow could  
7 identify them. Correct?

8 A. We kept the labels on, yes.

9 Q. So you would know what they were.

10 A. Well, it is just not our policy to mess around with the  
11 evidence.

12 Q. Right. And also if you take the labels off, you would  
13 never know where they came from. Right?

14 A. That is true as well.

15 Q. That is one of the reasons why you don't mess around with  
16 the evidence. Right?

17 A. Right.

18 Q. Okay. And in fact this tape, which was -- It was Holy  
19 Land Search No. 126. I think that was the answer to your  
20 previous question.

21 A. Yes, ma'am. Thank you.

22 Q. I am sorry. I didn't compute that quite right. But it  
23 is Holy Land Search No. 126, and that tells us it was taken  
24 from the Holy Land office. Correct?

25 A. Yes, ma'am.

1 Q. Okay. And this was the portion that you played involving  
2 a speech by Yousef Qaradawi. Right?

3 A. Right.

4 Q. But in fact, he was speaking at a MAYA conference in  
5 1993. Correct?

6 A. Right.

7 Q. Okay. And that was before Hamas was designated.  
8 Correct?

9 A. Yes.

10 Q. Now, the tape is two hours long. Correct?

11 A. I don't know that.

12 Q. Well, you only played about 18 minutes of it. Correct?  
13 Will you take my word for that?

14 A. I will take your word for it.

15 Q. Actually you only played a minute or two, but he only  
16 spoke for 18 minutes.

17 A. Okay.

18 Q. You didn't play anything else from this MAYA conference,  
19 did you?

20 A. I don't believe we did.

21 Q. And you didn't in your direct explain that this actually  
22 was a MAYA conference where he spoke, did you?

23 A. I don't know if I was asked that question.

24 Q. You didn't -- You weren't asked that question, were you?

25 A. I don't recall. I don't think so.

1 Q. You also --

2 MS. HOLLANDER: I may have to read this section,  
3 Your Honor. I am trying to figure out how to do the next part  
4 in my head, but let me see if I can do it without the  
5 overhead.

6 Q. (BY MS. HOLLANDER) You played something called Baker  
7 Wiretap No. 23. Do you recall what that is? It is a  
8 conference call.

9 MS. HOLLANDER: Can I approach the witness so I can  
10 show him what it is?

11 THE COURT: Yes.

12 Q. (BY MS. HOLLANDER) Okay?

13 A. Right.

14 Q. And just so the jury knows, this is Baker Wiretap No. 23,  
15 and it is 16 pages. And I assume I have the correct one here.  
16 A number of people were speaking during that conference call.  
17 Correct?

18 A. Right.

19 Q. And the Government played a small portion of it.

20 A. Right.

21 Q. And the people on this call were emams of the al-Aqsa  
22 mosque. Correct? That is how they identified themselves.  
23 Correct? Or the former speaker Dr. Abu Mahmoud, the former  
24 speaker of al-Aqsa mosque. Do you remember that?

25 A. That is one reference, yes, ma'am.

1 Q. And chairman of the Islamic University is how he was  
2 described?

3 A. That is how he described himself. Right.

4 Q. I was going to ask you to read this.

5 MS. HOLLANDER: But I think I am going to have to  
6 read it, if that is all right with Your Honor.

7 THE COURT: Yes.

8 MS. HOLLANDER: Okay. Thank you.

9 Q. (BY MS. HOLLANDER) One of the things that -- Now, just  
10 -- I believe you testified that the al-Aqsa mosque is  
11 particularly significant for Muslims all over the world. Is  
12 that correct?

13 A. Right.

14 Q. It is like the third holiest place in the whole Muslim  
15 world. Am I correct?

16 A. Yes.

17 Q. Okay. And one of the things that he says here is that  
18 "al-Aqsa mosque is a holy site which concerns Muslims  
19 generally as it is known to you. Jerusalem is the city of  
20 holy sites which concerns the entire world. It is not lawful  
21 to keep these sites away from the hands which are capable of  
22 protecting them, the hands which protect them from the fooling  
23 of racism, the fooling of sectarianism, the fooling of grudge,  
24 the fooling of narcissim" --

25 MR. JACKS: Your Honor, can we have a page number or

1 reference or something?

2 MS. HOLLANDER: It is page 8, bottom of 8 and the  
3 top of 9. I am sorry. Do you need me to show it to you. Can  
4 I confer with Mr. Jacks for just a moment?

5 THE COURT: Sure.

6 Q. (BY MS. HOLLANDER) So I was reading that they want to  
7 protect the al-Aqsa mosque "...from the hands that protect  
8 them, from the fooling of racism, the fooling of sectarianism,  
9 the fooling of grudge, the fooling of narcissism which is a  
10 status today. Today the holy sites in Jerusalem in particular  
11 and in Palestine in general fall in fooling hands. There must  
12 be a general global mobilization to save these holy sites, to  
13 return them to those who guard them with sincerity. If the  
14 world pretends to be dumb as it does today, ignore or overlook  
15 the matter under media pressure, racist pressure, or under  
16 biased pressure so Muslims are supposed to rise, and they are  
17 numerous, to defend their holy sites, and they are entrusted  
18 with the holy sites of all the people, whether Christian holy  
19 sites or Jewish holy sites, and not the Zionist holy sites  
20 that are far from the true path."

21 That was also part of what he said that day. Correct?

22 A. Yes.

23 Q. Now, I want to move on to one of -- Because the jury will  
24 have all of this, but I just wanted to highlight a little bit  
25 of it. The next one who is described as Sheikh Bitawi.

1 Correct?

2 A. Hamad Bitawi.

3 Q. Correct. And he is also described here as an al-Aqsa  
4 speaker, and also had something to do with the al-Aqsa mosque.

5 Correct?

6 A. I think he did.

7 Q. One of the things that you said on your direct was that  
8 one would have to be very creative to find any charity in this  
9 tape. Do you recall saying that?

10 A. I do.

11 Q. Let's read this part. Let me read this part from Sheikh  
12 Bitawi. "I send you my greeting and greetings of your  
13 steadfast Palestinian people which still suffers under the  
14 detested Israeli occupation and its unjust practice of  
15 confiscating the land of our people to build settlements for  
16 strangers who have neither a religious nor historical  
17 connection to Jerusalem, while a day doesn't pass when Israeli  
18 bulldozers destroy the homes of people under the excuse of  
19 having no permit."

20 Now, it goes on to say, "It is not permissible for its  
21 nightingales to sing, but permissible for birds of every  
22 color" -- I am sorry. I didn't read that right. "Is it not  
23 permissible for its nightingales to sing, but permissible for  
24 birds of every color. The Israeli occupation still fights the  
25 daily bread of our people as it besieges them, to humiliate

1     them, and to bring them down to it knees. The Israeli  
2     occupation still holds over 5,000 detainees and prisoners  
3     among the children of people in its prisons. The occupation  
4     still bars citizens from the West Bank and Gaza, Gaza Sector,  
5     from entering Jerusalem or passing by it, and entering the  
6     blessed al-Aqsa mosque to pray in it. The Israeli occupation  
7     carries out these unjust deeds, even though it signed accords  
8     and agreements for the Palestinian Authority."

9             Now, he mentions there that Israeli bulldozers destroy  
10    the homes of people under the excuse of having no permit. And  
11    you are aware that Israel has destroyed homes of people who  
12    have no permit. Correct?

13   A.    No, I am not actually familiar with that. I am familiar  
14    with homes being bulldozed, but for reasons related to  
15    terrorism.

16   Q.    So you haven't really investigated all the other reasons  
17    that Israel destroys homes to make way for settlements and  
18    other reasons, have you?

19   A.    I am only familiar with what I just said.

20   Q.    But you do know from dealing with the Holy Land case and  
21    the search that Holy Land had some projects involving  
22    demolished homes. Correct?

23   A.    There were references to that, yes.

24   Q.    Okay.

25             MS. HOLLANDER: May I approach, Your Honor?

1 THE COURT: Yes.

2 Q. (BY MS. HOLLANDER) Let me ask one question first. And  
3 you are familiar with the -- You said you saw Holy Land  
4 T-shirts when you were at InfoCom?

5 A. Yeah, I have seen T-shirts before.

6 Q. And you know what the Holy Land logo looks like?

7 A. Right.

8 MS. HOLLANDER: May I approach?

9 THE COURT: Yes.

10 MR. JACKS: Your Honor, could we have this on the  
11 record and not some private conversation.

12 MS. HOLLANDER: I am sorry. I will repeat that.

13 Q. (BY MS. HOLLANDER) Can you identify, without discussing  
14 the photographs because they are not in evidence,  
15 identify -- Do you see the bates number from the search?

16 A. I see the bates label, yes, ma'am.

17 Q. And do you see the Holy Land logo --

18 MR. JACKS: Could we have an exhibit number, Your  
19 Honor?

20 THE COURT: Counsel, what is the exhibit number?

21 MS. HOLLANDER: I was going to get to that.

22 THE COURT: You are already getting into what is in  
23 the photo and you haven't gotten to the exhibit number.

24 MS. HOLLANDER: Let's do them one at a time.

25 Q. (BY MS. HOLLANDER) Let's start with Defendants' Exhibit

1 No. 444. Do you see the bates number on that?

2 A. I do.

3 Q. And do you see a logo that you can identify on that?

4 A. Well, right. I need to kind of look at one to see if I  
5 can make it out on the others. That is pretty small.

6 Q. It is.

7 A. It is probably it.

8 Q. How about -- Let's go in order. Defendants' Exhibit  
9 No. 721. Does that come from the Holy Land search? Do you  
10 see a Holy Land logo on there?

11 A. Yes, it does.

12 Q. That one is pretty clear, isn't it, the logo?

13 A. Yeah.

14 Q. And would you look at Defendants' No. 1179? Do you see  
15 the Holy Land -- the bates number on there identifying your  
16 search?

17 A. Yes, I do.

18 Q. And do you see a logo on there?

19 A. Yes, I do.

20 Q. And No. 1180, is that -- Do you see a bates number on  
21 there that you can identify?

22 A. Yes, I do.

23 Q. And a logo?

24 A. Right.

25 MS. HOLLANDER: Your Honor, I move the admission of

1 Defendants' No. 444, 721, 1179 and 1180 as all pictures that  
2 the agent identifies as coming from Holy Land, and he  
3 identifies a Holy Land logo on them.

4 THE COURT: Mr. Jacks?

5 MR. JACKS: Your Honor, may I take the witness on  
6 voir dire?

7 THE COURT: Yes.

8 Q. (BY MR. JACKS) Agent Miranda, these photographs, other  
9 than the fact that they were seized from within the materials  
10 taken from the Dallas Holy Land foundation office, do you know  
11 where these photographs were taken, when they were taken,  
12 under what context they were taken?

13 A. No.

14 Q. Do you have any other information you can add other than  
15 what you said--they appear to have come from the search  
16 warrant of the Holy Land Foundation?

17 A. No.

18 Q. Do you know any of the people shown in there?

19 A. No.

20 MR. JACKS: Your Honor, we would object on the  
21 grounds that there is no foundation.

22 THE COURT: Sustained.

23 MS. HOLLANDER: That is fine. Very well.

24 Q. (BY MS. HOLLANDER) The video that you showed that we  
25 just discussed also discussed settlements. Correct?

1     Discussed "the unjust practice of confiscating the land of our  
2     people for the settlement of strangers."

3     A.    I am sorry.    Are we talking about Yousef Qaradawi?

4     Q.    Bitawi.

5     A.    In the section you just read?

6     Q.    Yes.

7     A.    That was in there I think.

8     Q.    And that wasn't part of the section you read, was it?

9     A.    I don't believe so, ma'am.

10    Q.    I show you what has been previously marked as Defendants'  
11    Exhibit No. 1110.

12                MR. JACKS:    Your Honor, is this in evidence?

13                MS. HOLLANDER:    Yes, sir; previously admitted as  
14    Defendants' No. 1110.

15    Q.    (BY MS. HOLLANDER)    And I don't know if you can see that,  
16    but are you familiar with the fact that there are settlements  
17    throughout the West Bank?

18    A.    Yeah, I have heard of that.

19    Q.    Have you ever been to the West Bank?

20    A.    It kind of depends.    I think I accidentally crossed into  
21    it.

22    Q.    Agent Miranda, you understand that it is not a crime to  
23    listen to a speech, even if it is a speech that supports  
24    Hamas.    Correct?

25                MR. JACKS:    Your Honor, I object to that as

1 argumentative.

2 THE COURT: Sustained. I am going to sustain that  
3 objection.

4 Q. (BY MS. HOLLANDER) You discussed the Hamas charter,  
5 didn't you?

6 A. Yes.

7 Q. And you have -- You don't believe it is a crime to own a  
8 copy of the Hamas charter, do you?

9 A. No.

10 Q. In fact, Yale University has published the Hamas charter  
11 in English, hasn't it?

12 A. I think that is what Doctor Levitt used.

13 Q. Right. And expressing political views isn't a crime  
14 either, is it?

15 A. Probably not.

16 MS. HOLLANDER: Your Honor, I will pass the witness.

17 THE COURT: Mr. Westfall, are you up?

18 MR. WESTFALL: I am, Your Honor.

19 CROSS EXAMINATION

20 By Mr. Westfall:

21 Q. Hello, Agent Miranda.

22 A. Hello, sir.

23 Q. We are almost done. Now, Abdul Odeh was not in the  
24 Muslim Brotherhood. Isn't that correct?

25 A. I don't know that. I have not --

1 Q. Okay. Let me phrase it like this, then. There has been  
2 no evidence presented in this trial that Abdul Odeh was ever a  
3 member of the Muslim Brotherhood.

4 MR. JACKS: Objection, Your Honor. That is  
5 argumentative.

6 THE COURT: He may ask him based on the evidence  
7 whether he is aware of the evidence.

8 THE WITNESS: I am more comfortable with the way you  
9 just phrased it.

10 Q. (BY MR. WESTFALL) Okay.

11 A. No, there has not.

12 Q. And there has been no evidence in this trial that Abdul  
13 Odeh was a member of the Palestine Committee.

14 A. I don't know if that is correct. I am not sure -- May I  
15 explain?

16 Q. The Palestine Committee of the Muslim Brotherhood?

17 A. Yes. Would you -- Do you want my answer or not?

18 Q. You know, what the heck.

19 A. I think I have seen Mr. Odeh's name on the Islamic  
20 Association for Palestine for some documents there, and I  
21 understand that the Islamic Association for Palestine, the  
22 IAP, is part of the Palestine Committee, so I am a little  
23 uncomfortable answering my questions in these black and white  
24 yes or nos.

25 Q. Because you haven't been here for some of the trial?

1 A. No, it is not that, sir. It is that I have seen lots of  
2 information, and I don't know whether or not the particular  
3 information that I am aware of is in or whether we have  
4 discussed it or not.

5 Q. Then I will ask you the same thing Mr. Cline did.

6 A. Okay.

7 Q. Would you do me a favor and look through the documents  
8 that have been admitted in this trial?

9 A. Admitted. Right?

10 Q. Right. And see if there is anything that --

11 A. I will be glad to do that.

12 Q. That will clear that question up.

13 A. I will be glad to do that for you, sir.

14 Q. I appreciate it.

15 Abdul Odeh was not at the Philadelphia conference.

16 Correct?

17 A. Right.

18 Q. And he was never on the board of directors of the Holy  
19 Land Foundation. Correct?

20 A. Correct.

21 Q. Or on the IAP?

22 A. I don't think he was on the board of directors, no.

23 Q. And his name does not appear in Marzook's phonebook.

24 Correct?

25 A. No.

1 Q. And his name does not appear in Ashqar's phonebook.

2 Correct?

3 A. I think that is correct.

4 Q. And his office in fact was in New Jersey. True?

5 A. Yes.

6 Q. And he never officed -- There is no evidence that he ever  
7 officed in Dallas. In this --

8 A. You are right.

9 Q. Okay. Now, I want to talk to you just a little bit about  
10 these conferences, these conferences where the speakers would  
11 speak. Are you with me?

12 A. I am with you.

13 Q. Okay. There would be a number of different activities of  
14 these like folk dancing and speaking, and then there would be  
15 the fundraising. Right?

16 A. There were a number of activities.

17 Q. And then from the fundraising there was a number of  
18 different ways that that could be done. It could be done  
19 through cash donations. Right?

20 A. I have seen that.

21 Q. People would write checks?

22 A. Right.

23 Q. Sometimes we see references to women donating jewelry.

24 A. Right.

25 Q. And there also would be pledges. Right?

1 A. Yes.

2 Q. Where you fill out your form and promise to pay.

3 A. Right.

4 Q. And then there also would be sponsorships of orphans;  
5 people would volunteer to sponsor an orphan. True?

6 A. Right.

7 Q. And then you could also sponsor a family if you wanted  
8 to. True?

9 A. Right.

10 Q. And specifically about the orphan sponsorships, what the  
11 payment was on that, the prevailing payment was \$50 a month.  
12 Correct?

13 A. That sounds correct.

14 Q. And some people would pay that monthly. Right?

15 A. Right.

16 Q. And some people would pay that quarterly.

17 A. I am more familiar with it as monthly, but I am not  
18 disputing what you are saying.

19 Q. And you see them paying annually \$600 in one lump sum.  
20 Right?

21 A. That is probably correct.

22 Q. And you could have that done either with a payment or the  
23 auto debit. You have seen that as well.

24 A. I have seen that.

25 Q. And if you didn't pay, you know, if you made a pledge and

1     didn't pay, then the Holy Land Foundation had a mechanism for  
2     sending you mail to remind you.  You have seen that in the 600  
3     boxes.

4     A.    That sounds right.  I can't recall, but it sounds  
5     familiar.

6     Q.    Right.  The family sponsorships were \$100 a month.  
7     Right?

8     A.    I think that is right.

9     Q.    And once again, some people just pay \$1200 for the whole  
10    year.

11    A.    I think that is correct.

12    Q.    And then the commitment on that was kind of open-ended.

13    A.    Right.

14    Q.    Which means that you would get a reminder notice or  
15    whatever and you would pay and you would sponsor this orphan  
16    for like -- from now on or until you stopped.  But it was kind  
17    of an open-ended commitment.

18               MR. JACKS:  I object to the form of the question in  
19    that it is not a question.  It is a statement.

20               THE COURT:  Do you want to rephrase?

21    Q.    (BY MR. WESTFALL)  Have you seen in the 600 boxes of the,  
22    you know, documents and such that were taken from Holy Land,  
23    evidence that people would sponsor orphans and families for,  
24    you know, kind of an open-ended period of time, a long period  
25    of time?

1 A. Yes.

2 Q. And the orphan and family sponsorships would be signed up  
3 for at the conferences as well as the other forms of donations  
4 we talked about.

5 A. That is one form of signing up for the orphans, yes. One  
6 method, I should say.

7 Q. But people did it at the conferences?

8 A. That is my understanding.

9 Q. In fact, speakers would encourage people to sponsor an  
10 orphan or pay \$500. I mean, we have seen that.

11 A. I think that is correct.

12 Q. And the Holy Land Foundation kept track of how much money  
13 some of their speakers brought in, didn't they?

14 A. Some of them.

15 Q. And in fact, speakers would get credit for some of these  
16 orphan applications.

17 A. I am not sure about the orphan applications. They get  
18 credit for money pledged, I guess, in their name.

19 Q. Right.

20 A. Or during their fundraising effort.

21 Q. And they get credit sort of as the pledges rolled in.

22 A. I think that is right.

23 Q. I want to switch gears just a little bit and speak with  
24 you about Demonstrative No. 16. Is your monitor still not  
25 working?

1 A. Not working, sir.

2 Q. Can you see that over there?

3 A. Yes, I can, sir.

4 Q. Now, that may be helpful, too. Now, yesterday I think  
5 Mr. Jacks' question said that the HLF box right here. Okay?

6 A. Yes.

7 Q. The one in New Jersey.

8 A. Right.

9 Q. Was just to indicate that there was an office in New  
10 Jersey at the time. Is that what you said?

11 A. I think I said that, yes.

12 Q. Okay. Now -- Can you see that okay?

13 A. Yes, I can, sir.

14 Q. If somebody didn't know better, you could look at this  
15 and think that these phone calls actually were generated from  
16 the New Jersey office; that someone who didn't know any  
17 better, you look at that and that is a conclusion you could  
18 draw, couldn't it?

19 A. I think that is why I pointed that out saying those were  
20 calls related to the Defendant Mohammad El-Mezain, not the HLF  
21 office. I was trying to be very specific. I wasn't trying to  
22 implicate Mr. Odeh in those particular phone calls.

23 Q. Okay. I want to just talk to you just a little bit more  
24 about that.

25 MR. WESTFALL: May I approach?

1 THE COURT: Yes.

2 Q. (BY MR. WESTFALL) I am showing you what is already in  
3 evidence, and I am doing this because I don't have the  
4 projector.

5 A. Right.

6 Q. This is already in evidence --

7 MR. WESTFALL: Can you hear me, Mr. Jacks?

8 MR. JACKS: Yes.

9 Q. (BY MR. WESTFALL) -- as Secretary of State New Jersey  
10 No. 1?

11 A. Right.

12 Q. Are you familiar with this document?

13 A. No.

14 Q. Please just take a look at it for a second.

15 A. Sure.

16 THE COURT: While he is doing that, let's take a  
17 quick five-minute break.

18 (Whereupon, the jury left the courtroom.)

19 THE COURT: We had a juror that had an emergency so  
20 we needed to take a quick break. Let's just take about a  
21 five-minute break.

22 (Brief Recess.)

23 THE COURT: Mr. Westfall?

24 Q. (BY MR. WESTFALL) Okay. Here is the document that I was  
25 showing you. This is Secretary of State New Jersey No. 1.

1 MR. WESTFALL: May I approach, Your Honor?

2 THE COURT: Yes.

3 Q. (BY MR. WESTFALL) Just look at that and familiarize  
4 yourself with it.

5 A. Okay. Go ahead, sir.

6 Q. Okay. Does that appear to you to be a certificate of  
7 authority for the Holy Land Foundation to do business in New  
8 Jersey?

9 A. Yes.

10 Q. Okay. And you see where it says filed June 2nd, 1994?

11 A. Right.

12 Q. So we already know that the New Jersey HLF box doesn't  
13 apply. I just want to try to get some of the reasons behind  
14 it. Okay?

15 MR. JACKS: I will object to the statement.

16 THE COURT: Sustained.

17 Q. (BY MR. WESTFALL) June 2nd, 1994 is when these articles  
18 or this certificate of authority to do business in New Jersey  
19 were filed, which is when a business begins. True?

20 A. When business begins legally, yes.

21 Q. Okay. This call here would have been almost a year prior  
22 to the New Jersey office being officially opened. True?

23 A. That is right.

24 Q. And we also know that that call actually went to the  
25 residence of Mohammad El-Mezain.

1 A. No, this is the call that went from Mohammad El-Mezain to  
2 the residence of Abdel Aziz Rantisi, the Hamas leader in Gaza.

3 Q. Hence the arrow that goes the opposite way from the  
4 United States. I am sorry. I got crossed up there.

5 A. That is all right.

6 Q. But nonetheless July 1993, and we officially opened in  
7 New Jersey June of 1994. True?

8 A. That is right.

9 Q. And then this 3/27/94 call to Qanuo, that was also before  
10 the New Jersey office officially opened.

11 A. Right.

12 Q. And then there was this one call from Jordan. I guess  
13 that is where Khalid Mishal left a message on Mohammad  
14 El-Mezain's voicemail.

15 A. That is correct.

16 Q. And this one technically would have been after the  
17 official opening of the Holy Land office.

18 A. That is correct.

19 Q. But it didn't go to the Holy Land office.

20 A. No. These are all phone calls related to the Defendant  
21 Mohammad El-Mezain Sir, I just said these are all phone calls.  
22 I meant the three that you had on the screen at the time. I  
23 don't want to mislead the jury that the other phone calls had  
24 nothing to do with other Defendants.

25 Q. I want to talk to you about the speakers list. Okay?

1 A. Yes, sir.

2 Q. And you know what I am talking about when I say the  
3 speakers list?

4 A. Sure.

5 Q. Let me put it on here. It is the HLF Search No. 87. Are  
6 we oriented?

7 A. Yes.

8 Q. Your Demonstrative, I don't know, No. 1?

9 A. I believe it is.

10 Q. This came off of I think you said Akram Mishal's  
11 computer.

12 A. It came off of an HLF computer, and it was -- the file  
13 was related to Akram Mishal.

14 Q. Okay. This does not bear an HLDL number?

15 A. No.

16 Q. Because it was on the computer at the time, not a hard  
17 copy.

18 A. Right.

19 Q. Right? There wasn't a hard copy of this around, was  
20 there?

21 A. No.

22 Q. So this computer that was linked back to Akram Mishal,  
23 was it a stand-alone computer or was it on a server?

24 A. I don't know.

25 Q. Was it an Apple or was it an IBM?

1 A. I don't know.

2 Q. The file name, you know that when something like this is  
3 on a computer it is called a file and it is going to have a  
4 name like something dot something?

5 A. Yes.

6 Q. What was the file name for this?

7 A. I don't recall.

8 Q. What computer program could you use to open it?

9 A. I don't know that I opened it. I think that was  
10 something found by the computer experts.

11 Q. So you don't know?

12 A. I don't think so.

13 Q. How many computers were there at Holy Land?

14 A. I have no idea. The computer people handle all that.  
15 And to clarify your question, I am not sure whether you mean  
16 hard drives, hard drives laptops, hard drives laptops, loose  
17 media.

18 Q. It just came off a computer. Right?

19 A. That is my understanding.

20 Q. Did you actually see it on the computer?

21 A. There was -- Let me try to explain this. The computer  
22 experts put materials from the HLF on computers that we could  
23 view, but we weren't viewing the HLF's computers. Does that  
24 make sense? They mirror the hard drives, they access the  
25 information, and then they put it on computers that the FBI

1 can then use so that agents can't make mistakes and  
2 intentionally or unintentionally add or delete something from  
3 a document. Does that make sense?

4 Q. Well, sure. That makes sense. But I am trying to find  
5 out really kind of exactly how it got to HLF and how it got  
6 here. Can you tell whether it was sent via email or actually  
7 created in the HLF office?

8 A. My understanding it was on an HLF computer. Beyond that,  
9 you know, I am not the computer examiner.

10 Q. You can't tell us how this thing got created, when it got  
11 created?

12 A. There was a creation date associated with it, or I should  
13 say maybe a last access date. I think I testified already  
14 about that. July of '99 I believe was the last time.

15 Q. So the last time it would have been opened was July of  
16 '99?

17 A. Or accessed or manipulated or something to that effect.

18 Q. Or if you download it in July of '99 that would affect  
19 that, too, possibly? I mean, do you know?

20 A. If you downloaded it?

21 Q. If you, for instance, get it via email and downloaded it.

22 A. I couldn't say. I don't know.

23 Q. We have talked about a number of the names on this  
24 overseas speakers list. I want to ask you just specifically,  
25 as we have seen some of these speakers or some of these names

1 in AMEX records, the AMEX Records No. 1 and AMEX Records No.

2 2. Right?

3 A. Yes.

4 Q. And those are American Express records from Holy Land

5 dating back to the '93 to '95 time frame?

6 A. I think we have seen them maybe '92 up to '95, but

7 thereabouts.

8 Q. Right. Well, this looks like -- This is AMEX No. 2. And

9 it looks like this one starts in about 1990. Right?

10 A. Right.

11 Q. November of '90?

12 A. Right. That is right. They go that early because they

13 relate to some folks up there.

14 Q. And it looks like the last date is April of '94. Does

15 that sound about right?

16 A. It sounds about right.

17 Q. And this is AMEX No. 1, and the first date on there is

18 1993. Right?

19 A. Yes, sir.

20 Q. There is some '94. Right?

21 A. Right.

22 Q. And it looks like '94 is the latest it goes.

23 A. Right.

24 Q. In these -- There was tickets bought, plane tickets

25 bought for overseas speakers.

1 A. Right.

2 Q. And we have seen some of those. And then we saw some  
3 videos with some of the people that are on this list. Right?

4 A. Yes.

5 Q. And then we have --

6 MR. WESTFALL: May I approach, Your Honor?

7 THE COURT: Yes.

8 Q. (BY MR. WESTFALL) This is already in evidence as HLF  
9 Search No. 23. Do you recognize this?

10 A. Yes.

11 Q. And we will talk about it a little bit more here in a  
12 bit, but this also is something that has the names of speakers  
13 in it. Right?

14 A. Yes.

15 Q. Now, let's talk about the evidence that has been  
16 admitted. Once again we will narrow it down to make it  
17 precise.

18 A. Yes, sir.

19 Q. In the evidence that has been admitted in this trial, is  
20 there any evidence that the Holy Land Foundation used Ziad Abu  
21 Ghanimeh as an overseas speaker; that he actually spoke?

22 A. I don't know. Have you looked in the book?

23 Q. Yes.

24 A. Okay. Then in the evidence that is admitted I don't  
25 think so.

1 Q. Yousef Qaradawi. He is the one that we saw on the video,  
2 the MAYA video.

3 A. Right.

4 Q. Is there any evidence in this trial that the Holy Land  
5 Foundation used Yousef Qaradawi, actually used Yousef Qaradawi  
6 as a speaker?

7 A. I need to double check.

8 Q. What do you need to double check?

9 A. I know he was in Kansas City in '89 or '90, and I want to  
10 make sure whether we have got it in evidence or not.

11 Q. That is where the MAYA conference was. Right?

12 A. There was a lot of MAYA conferences, sir. There was one  
13 MAYA conference, and I am aware that he was at a MAYA  
14 conference that was an HLF fundraiser, yes.

15 Q. And that would have been '88, '89?

16 A. It was Kansas City, it was '90, it was third Intifada  
17 festival or something to that effect. You are asking me  
18 whether I recall whether it is in evidence, and I am telling  
19 you -- I am trying to be up front and telling you I am aware  
20 he was a speaker. I am not aware whether or not it is in  
21 evidence.

22 Q. Or whether it was for HLF. I mean, it was for MAYA.

23 A. It was an HLF fundraiser is my understanding.

24 Q. Let's talk about the fundraisers a little bit, then.  
25 These fundraisers would be put on by MAYA, actually these

1 festivals. Right? MAYA put on the festival?

2 A. Festivals, fundraisers, yeah.

3 Q. And IAP --

4 A. Right.

5 Q. -- would put on festivals. They are the ones that did  
6 the series of Intifada festivals?

7 A. They did.

8 Q. And ICNA?

9 A. ICNA is really more of a Pakistani group. I am not sure  
10 how much they were involved, is my understanding.

11 Q. Did you know ICNA put on festivals?

12 A. I think they did. I don't know of the relationship to  
13 the HLF.

14 Q. And ISNA would have festivals?

15 A. ISNA.

16 Q. And the way this would work, particularly with the ISNAs  
17 and the MAYAs and all that, is that there were a number of  
18 organizations that would apply or come in to raise funds at  
19 that festival. Right?

20 A. I don't know about that.

21 Q. I mean, there would be like, for instance, Palestine  
22 would have a night potentially, Bosnia would have a night  
23 potentially, but more than just the HLF would go to these and  
24 try to raise funds.

25 A. No.

1 Q. Is that jogging your memory?

2 A. No. I am going to have to disagree with you, sir. There  
3 were festivals that to my understanding were pretty strictly  
4 Palestinian HLF, and then I believe there were other festivals  
5 which were larger in scope which I think were more  
6 encompassing of other groups. But to say that they always  
7 diversified, I don't believe that is accurate.

8 Q. And I was being a little bit unclear. What I meant to  
9 say was -- Let's set aside these IAP festivals, you know,  
10 during the Intifada festival days.

11 A. Okay.

12 Q. Because we had those videos that say, you know, "Send  
13 your contributions to the OLF." Right?

14 A. Right.

15 Q. But the ones like the MAYA conferences are the ones that  
16 have more than just the Holy Land Foundation coming up to  
17 raise funds. Wouldn't you agree?

18 A. I think so.

19 Q. Okay. All right. Yusuf Islam. Now, is that Cat  
20 Stevens?

21 A. I think it is.

22 Q. That is what he changed his name to after he converted to  
23 Islam?

24 A. Uh-huh.

25 Q. Any evidence the Holy Land Foundation used him as a

1 speaker?

2 A. I am not aware there is.

3 Q. Yousef el-Athem, is there any evidence in this trial that  
4 the Holy Land Foundation used him as a speaker?

5 A. I am not aware.

6 Q. Yassin Abdul Aziz. Is there any evidence in this trial  
7 that the Holy Land Foundation used him as a speaker?

8 MR. JACKS: Your Honor, I am going to have to object  
9 to the form of the question. The list itself is labeled  
10 overseas speakers, so it is really misstating the evidence.  
11 So I object to the question in the sense that it  
12 mischaracterizes the evidence.

13 THE COURT: I think you can argue that to the jury,  
14 counsel. That will be ultimately for the jury to decide.

15 I wonder how many you are going to go through, counsel.  
16 That is a long list. How many names are you going to go  
17 through? If it is a lot, the answer is no.

18 MR. WESTFALL: It was characterized as though we had  
19 used all of these people.

20 THE COURT: You can ask him how many were or some  
21 other way to do it. I am not going to let you go name by name  
22 and ask these questions as to each name. If you want to come  
23 up with some shorter way of establishing a certain number  
24 weren't, how many weren't, I will let you do that, but not  
25 name by name. That is a long list. We are not going to spend

1     our time doing that.

2                   MR. WESTFALL:   Okay.

3     Q.     (BY MR. WESTFALL)   Clearly there are many names on this  
4     list that there is no evidence in this trial that the Holy  
5     Land Foundation ever used.   Correct?

6     A.     Right.

7     Q.     And also just because these names are highlighted on this  
8     Demonstrative No. 1 doesn't mean that the Holy Land Foundation  
9     -- that there is evidence in this case that the Holy Land  
10    Foundation ever used any of these people.   Correct?

11    A.     No.   Actually some of them were big fundraisers in fact.

12    Q.     I know.   But just because they are highlighted doesn't  
13    mean that the Holy Land Foundation actually used them as  
14    speakers.   True?

15    A.     Right.   I don't think that was the intent.

16                   MR. WESTFALL:   May I approach the witness, Your  
17    Honor?

18                   THE COURT:    Yes.

19                   MR. WESTFALL:   Your Honor, may I come back to this  
20    list?

21                   THE COURT:    Sure.

22    Q.     (BY MR. WESTFALL)   I am showing you what has been marked  
23    for identification as Defendants' No. 1087.   Just take a look  
24    at that and tell me, do you recognize that document, Agent  
25    Miranda?

1 A. Yes.

2 Q. And is that a document that you have actually on an  
3 earlier occasion relied upon in coming up with amounts and the  
4 such for speakers?

5 A. Yes.

6 Q. And it also is a --

7 A. Can you repeat your last question?

8 Q. That is a document that you relied upon in some testimony  
9 that you gave in an earlier proceeding.

10 A. Right.

11 Q. And that is also a document that came off of I guess a  
12 disk that was in the Holy Land office?

13 A. I don't recall if it was a disk, sir; obviously something  
14 computer-generated.

15 Q. But it came from the Dallas office.

16 A. Right.

17 Q. Of Holy Land Foundation.

18 MR. WESTFALL: Your Honor, I move for admission  
19 Defendants' No. 1087.

20 THE COURT: Mr. Jacks?

21 MR. JACKS: May we have a moment, Your Honor?

22 THE COURT: Sure.

23 MR. JACKS: No objection, Your Honor.

24 THE COURT: Defendants' Exhibit No. 1087 is  
25 admitted.

1 MR. WESTFALL: Thank you, Your Honor.

2 Q. (BY MR. WESTFALL) And the next part -- I am at a  
3 breaking place. The next part I am going to get into --

4 THE COURT: Go ahead. We will go forward a little  
5 longer.

6 MR. WESTFALL: Okay.

7 Q. (BY MR. WESTFALL) I am going to put on here what came  
8 into evidence yesterday as HLF Search No. 178. Okay? And  
9 that is this solicitors analysis.

10 A. Right.

11 Q. Now --

12 MR. WESTFALL: May I approach the witness, Your  
13 Honor?

14 THE COURT: Yes.

15 Q. (BY MR. WESTFALL) It is so small on this screen I just  
16 want to give you a copy. Does this appear to be the same  
17 exhibit you talked about yesterday?

18 A. Yes, sir.

19 Q. Okay. And it didn't copy all that well, but over here on  
20 this corner those are years. Right?

21 A. Right.

22 Q. And this year here is '97?

23 A. Right.

24 Q. And then see where Chicago is?

25 A. Right.

1 Q. And then Chicago here starts '98.

2 A. No. I think '98 starts on the next page, sir, doesn't  
3 it?

4 Q. I know there is another '98 up there, but then there is  
5 '99 where we got Chicago starting again.

6 A. It might be on the previous page. I probably need to  
7 look at the original, sir.

8 Q. And I don't have it. But you see how there is Chicago in  
9 '97 and then Chicago and this hole?

10 A. Right.

11 Q. And then the next one there is Chicago and then the '99?

12 A. Right.

13 Q. But it doesn't appear the one with the hole is '98?

14 A. I am going to be guessing, sir. If I could just see the  
15 original I will give you an answer.

16 MR. WESTFALL: Do you have the original, HLF Search  
17 No. 178?

18 THE COURT: Mr. Westfall, he is handing it to you.

19 MR. WESTFALL: Okay.

20 THE WITNESS: I don't see anything. See there is  
21 the '98 where I pointed to, but there is no '98 on the second  
22 page, sir.

23 Q. (BY MR. WESTFALL) Let's do this, then. Okay. So I just  
24 want to point out a number here that I think you all might  
25 have pointed out yesterday, and that is this Anees, Mezain,

1 and Said. Do you see that there?

2 A. Yes, I do.

3 Q. And \$15,080?

4 A. Yes, sir, I do.

5 Q. And this is 1997.

6 A. Yes.

7 Q. And Chicago.

8 A. Yes.

9 Q. Now, this \$15,080, you can't really tell from this  
10 exhibit, the one you all put in yesterday, you can't really  
11 tell whether that came in one conference or several  
12 conferences or what it was. Right?

13 A. You just got to go by the document.

14 Q. And what does the document say to you?

15 A. It says \$15,080 is associated with Anees, Mezain, and  
16 Said connected to '97 in Chicago.

17 Q. Does this document tell you how that \$15,080 was raised?

18 A. No.

19 Q. I show you the first page of HLF Search No. 23. This  
20 here -- This is already in evidence. And you recognize this  
21 document. Right?

22 A. I recognize that, yes, sir.

23 Q. And what this is--correct me if I am wrong--is a printout  
24 from a file that was in Dallas giving the names of people.  
25 Right?

1 A. Yes, sir.

2 Q. And then a date. Correct?

3 A. Right.

4 Q. And a city name oftentimes?

5 A. Right.

6 Q. Sometimes there is no city name. It says "null." Right?

7 A. Right.

8 Q. And then over here on this side there is a dollar amount.  
9 True?

10 A. Right.

11 Q. And this one document is 231 pages long.

12 A. Okay.

13 Q. Do you want to see it?

14 A. That is okay.

15 Q. I am just seeing if you remember it. I don't have an  
16 extra copy for you.

17 A. That is okay.

18 Q. And this one sets the data up chronologically. Now, do  
19 you know where this came from, what computer this came off of?

20 A. No.

21 Q. Do you know what program --

22 A. Just off the HLF.

23 Q. Right. Do you have any idea what program this one used?

24 A. No.

25 Q. Whether it was Oracle or whatever?

1 A. No.

2 Q. Now, it starts in 1989. True?

3 A. Right. That is the first entry.

4 Q. And then ends in 2000. Right?

5 A. Right.

6 Q. And it is in chronological order the entire way.

7 A. Right.

8 Q. Now, No. 1087, what we just put into evidence, is the  
9 exact same data. True? Meaning the same entries are on it.  
10 Right?

11 A. Can you repeat that again?

12 Q. This one that we just put in.

13 A. Right.

14 Q. The other thick one right here, Defendants' No. 1087, is  
15 the exact same data. True? Do you know what I mean when I  
16 say that?

17 A. No. Because you are -- I am sorry. You are confusing me  
18 a little bit. You are comparing apples and oranges. What are  
19 we talking about, sir?

20 Q. It is apples and apples.

21 MR. WESTFALL: May I approach to show him the  
22 documents? It is going to make it easier.

23 THE COURT: Yes.

24 THE WITNESS: We are not dealing with this at all.

25 Q. (BY MR. WESTFALL) No, we are not messing with this.

1 Right. That is apples and oranges. This document right here,  
2 which is Defendants' No. 1087 and HLF Search No. 23, this is  
3 the exact same data. It is just arranged differently. Isn't  
4 that true?

5 A. No. One shows a city -- Let me see here. Okay. I am  
6 with you. Yes.

7 Q. This one is strictly chronological. This one is  
8 alphabetical by last name.

9 A. I am with you.

10 Q. Here is from page 48 of that exhibit and you see this  
11 Anees, Mezain, and Said.

12 A. Right.

13 Q. And 13 December, '96, Chicago.

14 MR. JACKS: Your Honor, can he identify which  
15 exhibit he is referring to?

16 MR. WESTFALL: Defendants' No. 1087.

17 THE COURT: All right.

18 Q. (BY MR. WESTFALL) Now we will look at HLF Search  
19 No. 178, which is this thing, this solicitor deal.

20 A. Right.

21 Q. And can you see that that is exactly how it is listed on  
22 here--Anees, Mezain, and Said?

23 A. Yes.

24 Q. Do you see it is Anees plus Mezain plus Said in both  
25 places?

1 A. Right.

2 Q. I want to skip over to another document that is in  
3 evidence that was spoken about yesterday, and this is HLF  
4 Search No. 177. Do you recognize this?

5 A. Yes, sir.

6 Q. The HLF general activities. And in this document you  
7 pointed out in October of 1996, and this came out of Abdul  
8 Odeh's office. HLNK New Jersey.

9 A. Yes, sir.

10 Q. And in October of 1996, there is a lunch apparently  
11 purchased for Deeb Anees. Right?

12 A. Yes, sir.

13 Q. And in November of 1996 there was a dinner purchased for  
14 Deeb Anees. Right?

15 A. Right.

16 Q. And you looked for other things like this where Deeb  
17 Anees had been given lunch and dinner, I am sure.

18 A. I ran his name, yes.

19 Q. And this is what we have--1996. Right?

20 A. I think there was a couple of other documents.

21 Q. That are in this batch?

22 A. Maybe not with that batch.

23 Q. What did you say?

24 A. I said maybe not with that batch.

25 Q. Well, this batch is what you put in yesterday. Right?

1 A. Yes.

2 Q. And this is the fall of 1996.

3 A. Right.

4 Q. Now I am showing you page 37 of Defendants No. 1087.

5 Okay? And there is two different ways that Deeb Anees turns  
6 up in this record. One of them is in conjunction with --

7 MR. JACKS: Your Honor, I am going to object to the  
8 form of the question. There is no question.

9 THE COURT: Well, he is asking. Go ahead and ask  
10 your question.

11 Q. (BY MR. WESTFALL) One is Anees, Mezain, and Jabbar.  
12 Isn't that true?

13 A. Yes.

14 Q. And then the other one is that Anees, Mezain, and Said we  
15 saw before. True?

16 A. We have seen that, yes.

17 Q. And here we show in the alphabetical list basically where  
18 the names start. Right?

19 A. Yes.

20 Q. Do you see how in 1996 we have amounts like this \$3,000?  
21 Do you see that?

22 A. I do.

23 Q. And in November of '96 we got amounts like \$4,825.25?

24 A. Right.

25 Q. In November of '96 we've got \$7,300 in San Diego.

1 THE COURT: Your numbers are not on --

2 MR. WESTFALL: I am sorry.

3 THE WITNESS: Yes.

4 Q. (BY MR. WESTFALL) Let me back it up a little bit.

5 Anees, Mezain, and Jabbar in November of '96, \$3,300 Right?

6 A. Right.

7 Q. Here is where we start getting into '97. Do you see  
8 this? Can you see that?

9 A. Yes.

10 Q. As we move into '97, do you see how the amounts become  
11 much smaller and all seemingly divisible by \$50 increments?

12 A. Yes.

13 Q. And as we move through 1997, do you see how that  
14 continues, by and large?

15 A. Yes.

16 Q. Here is more of '97. Do you agree that doesn't change?  
17 Do you accept my representation on that?

18 A. Through '97?

19 Q. Through '97, yes. Do you want to see more?

20 A. No, I think that is fine.

21 Q. And I have skipped ahead a couple of years, and now we  
22 are up in 2000. Do you see how '99 and 2000 are starting to  
23 get in there?

24 A. Yes.

25 Q. And these are still small amounts all divisible by \$50.

1       Wouldn't you agree?

2       A.     Yes.

3       Q.     Shifting now you Anees, Mezain, and Said, do you see how  
4       this is 13 December of '96?

5       A.     Yes.

6       Q.     And under this new name can you see we sort of start over  
7       again on the years, under this new combination we start over  
8       on the years? We are back to '96.

9       A.     Yes, kind of. Pardon me.

10      Q.     I am sorry?

11      A.     I said kind of. There is '97 in there, too, but --

12      Q.     Right. It is kind of mixed up that way. But by and  
13      large it kind of starts in '96 and ends this 2000 with  
14      some -- But here is November 27, November '96, \$650; 25 of  
15      October '96, \$10,000 --

16               THE COURT: Your quantities are still not on the  
17      screen, counsel.

18      Q.     (BY MR. WESTFALL) \$10,565. Right?

19      A.     Yes, sir.

20      Q.     And here is 19th of November '96, \$2000. December '96,  
21      \$1,800. Right?

22      A.     Right.

23      Q.     And as we move through the fall of 1996, here is February  
24      of '97, Chicago, \$1,050. Do you see that?

25      A.     Right.

1 Q. But then after that it kind of does the same thing. As  
2 we move out of the spring of '97 and into the fall of '97, it  
3 drops down into these small amounts all divisible by \$50. Do  
4 you see that?

5 A. Yes, sir.

6 Q. This here is page 52 out of the same exhibit. Spring of  
7 '98, all small amounts divisible by \$50, isn't it?

8 A. Right.

9 Q. This is '99; same thing. Let me show you the whole  
10 thing. Is that the same thing?

11 A. Yes, sir.

12 Q. And then here is where it ends. Anees, Mezain, and Said,  
13 the last one looks like 26th of August of 2000 and it is 50  
14 bucks. Do you see that?

15 A. Right.

16 Q. \$50. Now, back to HLF Search No. 178, the one you had in  
17 evidence yesterday. Do you see this 1997 number?

18 A. Right.

19 Q. This is page 48 out of HLF Search No. 23. And this is  
20 the chronological one. Do you see that?

21 A. Yes.

22 Q. Anees, Mezain, and Said.

23 A. Yes, I see that.

24 Q. And then over here, that highlighting there is \$50 and  
25 \$200.

1 A. Correct.

2 Q. Now, as a time savings measure, if I represented to you  
3 that I highlighted every transaction from Anees, Mezain, and  
4 Said in Chicago --

5 MR. JACKS: Your Honor, I will object to this. It  
6 is his testimony now, and not Agent Miranda's.

7 THE COURT: Let's ask the question. This time  
8 savings measure, I am in favor of it.

9 MR. JACKS: I am, too.

10 THE COURT: Let's let him ask the question and see  
11 what he says.

12 Q. (BY MR. WESTFALL) If I represented to you and went  
13 through and added up all of the 1997 Chicago Anees, Mezain,  
14 and Said transactions, that it totaled exactly \$15,080, is  
15 that a representation you would accept?

16 MR. JACKS: I object, Your Honor.

17 THE COURT: Do you want to rephrase the question,  
18 counsel? Maybe he knows. Let him rephrase.

19 MR. JACKS: It doesn't matter whether he accepts it  
20 or not.

21 THE COURT: I am asking him to rephrase, so let's  
22 see where he is going.

23 Q. (BY MR. WESTFALL) I know at one point -- Let me just ask  
24 you. At one point didn't you add up the amounts that the  
25 different speakers raised?

1 A. Yeah. At one point I added up various amounts of certain  
2 speakers, not all speakers. The book is not reflective of all  
3 money. It does not reflect money raised by Hamas speakers for  
4 the most part, so I am going to give a caveat on your question  
5 there.

6 Q. Right. By it certainly reflects Deeb Anees. Right?

7 A. Deeb Anees is throughout that. That is correct. I agree  
8 with that.

9 Q. And that is one of the ones that you added up.

10 A. Yeah, I think I had a figure for him at some point.

11 MR. WESTFALL: May I ask him to add them up, Your  
12 Honor?

13 THE COURT: Not right now. Do you have some idea  
14 what that number was? Does that \$15,000 sound --

15 THE WITNESS: I added at one point the major  
16 speakers, and I probably have a figure somewhere. I don't  
17 have a problem --

18 THE COURT: You can do that after the break. We  
19 don't need to take the time to do that right now.

20 MR. WESTFALL: Very well.

21 Q. (BY MR. WESTFALL) Well, certainly this book here gives  
22 you the ability to add up what is in this book. True? You  
23 can take the names like Anees, Mezain, and Said, and you can  
24 add up all of the numbers that are in here.

25 A. Right. You can add up the figures in the book.

1 Q. Right.

2 A. Right.

3 Q. And then you can take those figures and see if they match  
4 what is in your HLF Search No. 178, couldn't you?

5 A. Sure.

6 Q. And this document here actually has an HLDL number on it.  
7 True?

8 A. That is correct, yes.

9 Q. So this document came from I guess a different place than  
10 the totals document. Right?

11 A. No, not necessarily. This is -- I am sorry. The one you  
12 have on the screen is HLF Dallas.

13 Q. Right.

14 A. Are we referring now to the Defendants' exhibit or the  
15 other one?

16 Q. Maybe place wasn't the clearest term in the world. I am  
17 not talking about location. I am talking about this here  
18 obviously is a hard copy because it has HLDL.

19 A. That is correct.

20 Q. So these don't have HLDL, so they were on some computer  
21 somewhere in the Dallas office.

22 A. Right.

23 Q. Okay. And you can take -- It would be possible to take  
24 the amounts in the chronological book or in this book and  
25 separate them by year. Wouldn't it be possible to do that?

1 A. Right.

2 Q. And it would also then be possible to see if they  
3 actually match this other number on a document that was found  
4 in a different physical location than these.

5 A. Sure.

6 Q. Did you do that?

7 A. Did I match this with those?

8 Q. Yes.

9 A. No.

10 Q. To see if it matched.

11 A. No.

12 Q. Now, we have been through the numbers, and we saw this in  
13 this exhibit here.

14 A. I am sorry, sir. Tell me what this exhibit means. What  
15 are we talking about? The Defendants' --

16 Q. Defendants' No. 1087.

17 A. All right.

18 Q. And HLF Search No. 23.

19 A. Okay.

20 Q. Okay? And we have been through this now for 20 or 30  
21 minutes going through the amounts.

22 A. It seems longer.

23 Q. Okay. I know. And the later it gets the longer it is  
24 going to seem.

25 A. Yes, sir.

1 Q. Would you agree with me that there was a spike in the  
2 fall of '96 and then it quickly reduced to these small  
3 amounts?

4 A. Yes.

5 Q. And would you agree with me that that is consistent  
6 now--you used that word yesterday, consistent--is that  
7 consistent with Deeb Anees being actually in the country of  
8 fall of '96 when Abdul Odeh was taking him out to lunch?

9 A. That is possible.

10 Q. And then after that, the rest of the money that came in  
11 would be consistent with either pledges or orphan application  
12 money or family sponsorships coming in.

13 A. Probably, yes.

14 Q. And the phone call where Shukri is telling Odeh, "Don't  
15 take Deeb Anees' money," that phone call we discussed.

16 A. Uh-huh, yes.

17 Q. Was in December of 1999. True?

18 A. Right.

19 Q. And basically the upshot of that phone call is Shukri is  
20 telling Abdul Odeh, "Don't mess with this guy because he  
21 speaks for Samah flatly or bluntly."

22 A. I am going to disagree with you on that. There were  
23 three or four reasons Mr. Baker gave for not dealing with him.  
24 Do you want me to run through some of those?

25 Q. It seemed like Odeh just wasn't getting it, didn't it?

1 Let's just look at the conversation, then. There was never  
2 one time in this conversation where Shukri told Odeh to take  
3 Deeb Anees' money. Right?

4 A. To take it?

5 Q. Yes.

6 A. No, I don't think he said take it.

7 Q. Okay. He said every time, for whatever reason, do not  
8 accept the money that this guy is trying -- And basically Deeb  
9 Anees didn't have the money. Somebody withheld the money and  
10 was offering to give it to the Holy Land because Deeb Anees  
11 collected it in the name of Palestine. Right?

12 A. That is what I understood.

13 Q. And at no time did Shukri tell Odeh, "Okay. Take the  
14 money."

15 A. No, he didn't say that.

16 Q. And he gave -- I guess he said, "Deeb Anees is dishonest.  
17 Deeb Anees will hold us up for ransom." But one of the  
18 reasons was "Deeb Anees speaks flatly and publicly for Samah."

19 A. That was one of the reasons, yes.

20 Q. Okay. So the upshot of this conversation is that Shukri  
21 is telling Deeb Anees or telling Abdul Odeh, "Do not take Deeb  
22 Anees' money." True?

23 A. Right.

24 MR. WESTFALL: May I have just a moment, Your Honor?

25 THE COURT: Sure.

1 MR. WESTFALL: Pass the witness, Your Honor.

2 THE COURT: All right. Let's go ahead and break  
3 here for the day. Be back at 9:00 in the morning.

4 Please recall the instructions, and we will see you back  
5 at 9:00.

6 (Whereupon, the jury left the courtroom.)

7 THE COURT: For your planning schedule for this  
8 week, we will plan on working all day tomorrow. Friday I have  
9 a commitment at 3:00, so what I am planning on doing is  
10 working through the noon hour again and breaking at 1:00 and  
11 we will break for the day. So tomorrow we will plan on  
12 working a little later again, Ms. Cadeddu, in case you need  
13 some notice. So that will be the plan.

14 MR. CLINE: And we will break at 1:00 on Friday?

15 THE COURT: Yes. We will work straight through  
16 until 1:00 and break for the day.

17 Anything we need to discuss that we need to be early for?

18 MR. JONAS: The only issue are the remaining Defense  
19 exhibits.

20 THE COURT: Which ones are those?

21 Everybody can be seated by the way.

22 MR. JONAS: I know there for sure No. 1340 and 1342  
23 I anticipate Mr. Dratel may try to admit, I am not sure if  
24 there are any others.

25 MR. DRATEL: The witness is in the room.

1 THE COURT: Yes.

2 MR. JONAS: Those are the only two I am aware of.

3 THE COURT: Those two, 1340 and 1342?

4 MR. DRATEL: I think everything else is in evidence  
5 that I am using.

6 THE COURT: I think that is all we had left from  
7 this morning. But are you planning on offering those?

8 MR. DRATEL: Probably.

9 THE COURT: The objection is hearsay. Correct? I  
10 think that is what --

11 MR. JONAS: Hearsay and relevance.

12 MR. DRATEL: The reason they are offered is twofold.  
13 One is state of mind, and the other that it is related to as  
14 well, Mr. Jacks has two specific questions of Agent  
15 Miranda--"Do you see any evidence that indicates that the  
16 Defendants' knowledge of the law or designation knowledge of  
17 the law," and "Are there any telephone conversations about  
18 that." And my position is that these conversations would show  
19 that Mr. El-Mezain is adamant about not letting this person  
20 Abu Nimer, who is his cousin but also a Hamas person, which is  
21 already in the record already, to get involved in the hospital  
22 Dar el-Salam that Holy Land is funding in Gaza.

23 And so my point is that that is an answer to that  
24 question that the Government hasn't put in that we would like  
25 to put in to show that to impeach or show state of mind.

1 THE COURT: And that is one of those conversations?

2 MR. DRATEL: They are both. One is with his brother  
3 and one is with his parents.

4 THE COURT: But they are discussing that hospital?

5 MR. DRATEL: Yes. And I would not be reading the  
6 entire conversation. There is other stuff -- I would be  
7 picking out parts. I will be reading because obviously it is  
8 in Arabic.

9 THE COURT: And the part you are primarily  
10 interested in, if I understand you right, is where they are  
11 discussing this individual working at the hospital?

12 MR. DRATEL: Yes, and the impact that would have on  
13 Holy Land and that --

14 THE COURT: Anybody want to address that?

15 MR. JACKS: Well, Judge, that does not go to  
16 knowledge of statutes; certainly not to the specificity that  
17 we did. We presented evidence that they had copies of  
18 specific statutes, they being Ghassan Elashi. And having a  
19 discussion with your parents about someone is not -- I don't  
20 believe it is indicative of knowledge of legislation.

21 And secondly, state of mind, as I said earlier, is a very  
22 specific exception where a Defendant is allowed to put his own  
23 out-of-court statements into evidence, and I don't believe  
24 that these conversations are the type of conversations that  
25 are intended or qualified to show state of mind -- The cases

1     that I have examined talk about state of mind at a particular  
2     point in time, and for that reason I don't believe that they  
3     would come in for that purpose.

4             And also they are not to counter the Government's  
5     evidence regarding what knowledge the Defendants had of  
6     legislation. Specifically, the conversations that we have  
7     admitted dealt with Shukri Abu Baker and Ghassan Elashi, and I  
8     don't believe there has been a conversation admitted yet that  
9     deals with Mohammad El-Mezain.

10            MR. DRATEL: Your Honor, two things. One is that he  
11     asked a question about all Defendants. He didn't ask about  
12     Mr. Abu Baker and Mr. Elashi exclusively.

13            But the other thing is what Mr. Jacks is talking about  
14     goes to weight and not admissibility. I ask the Court to  
15     review the conversations, see the state of mind, see the  
16     consciousness, the implications that having someone like that  
17     be involved with that hospital would have for Holy Land and  
18     its work in Palestine. And I think, as I said, it goes to  
19     weight and not admissibility in that regard.

20            THE COURT: All right. I will review those and then  
21     we will finish up, Agent Miranda.

22            How long do you anticipate your cross?

23            MR. DRATEL: I will try to keep it to an hour max.  
24     Some depends on the give and take and how long it takes. A  
25     lot of yes answers and it gets moving.

1 THE COURT: And Ms. Cadeddu, how long?

2 MS. CADEDDU: Short, if at all.

3 THE COURT: Would you expect much redirect?

4 MR. JACKS: No, Your Honor.

5 THE COURT: Okay. So it looks like we will finish  
6 him sometime in the morning, then. And then are we still  
7 planning to getting to Mr. Levitt?

8 MR. JONAS: Yes.

9 THE COURT: And I will need to rule on those  
10 objections, that motion. You filed a motion on that, so I  
11 will need to rule on that, then.

12 Why don't go ahead and be here at 8:45 and we will try to  
13 address that issue with Doctor Levitt.

14 We will see you in the morning.

15 (End of day.)

16

17

18

19

20

21

22

23

24

25

1 I HEREBY CERTIFY THAT THE FOREGOING IS A  
2 CORRECT TRANSCRIPT FROM THE RECORD OF  
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.  
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES  
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE  
6 COURT AND THE JUDICIAL CONFERENCE OF THE  
7 UNITED STATES.

8  
9 S/Shawn McRoberts

06/22/2009

10 \_\_\_\_\_DATE\_\_\_\_\_  
11 SHAWN McROBERTS, RMR, CRR  
12 FEDERAL OFFICIAL COURT REPORTER  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25